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Summary of Vehicle Occupant Protection Laws

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INTRODUCTION

PURPOSE

This publication reports the status of State statutes that are concerned with vehicle occupant protection (except off highway vehicles). Such laws include requiring the use of (1) safety belts, (2) child passenger restraint devices and (3) motorcycle or bicycle helmets. Also included are laws that prohibit riding in the bed of a pick-up truck.

Except as noted, the status of the State laws reported is January 1, 2002.

ORGANIZATION

This publication is divided into three areas: (1) Introduction; (2) Summary Table; and, (3) a State by State Analysis. The State by State Analysis is organized by State and then by specific legal topics. The State by State Analysis includes code and, where needed, case law citations; these should help individuals conducting additional research in this area of the law. The State by State Analysis can be used to facilitate the comparison of State laws in the subject areas.

The Appendix, using the State by State Analysis' format, gives the Uniform Vehicle Code's provisions on vehicle occupant protection.

EXPLANATIONS

Required Use of Safety Belts. Although there are limitations, exceptions or exemptions, State laws usually require that drivers and passengers wear a safety belt when operating or riding in a **private**

passenger motor vehicle. Generally, State laws provide that this requirement **only** applies to motor vehicles that are required to be equipped with safety belts. 49 CFR 571.208

Limitations, Exceptions or Exemptions. Safety belt use laws provide for numerous limitations, exceptions or exemptions. Most States mandate the use of safety belts only for drivers and **front seat** passengers. In addition, except for New Hampshire, all States exempt individuals from wearing a safety belt if they can justify such based on either a medical necessity or physical size. Other exceptions include passengers riding in public transportation vehicles (e.g., buses) and rural letter carriers of the U.S. Postal Service.

Standard or Primary Enforcement Versus Secondary Enforcement of Safety Belt Use Laws. "Standard" or "primary" safety belt enforcement means that law enforcement officers have the authority to issue a citation for a failure to wear a safety belt based **solely** on probable cause of such violation. "Secondary" enforcement means that such officers are only authorized to enforce a violation of the safety belt use law after they have **first** stopped a person for some other violation of the law. **Important:** In this publication, a State provides for "standard" or "primary" enforcement unless otherwise indicated

Required Use of Child Restraint System. All State laws now require that children be secured in either a child passenger protection

INTRODUCTION

(continued)

device or safety belt when being transported in a motor vehicle. Very young children (e.g., <4 years old) must be secured in a child passenger protection device. Most State laws provide that these devices must satisfy Federal specifications. 49 CFR 571.213 For older children (e.g., ≥4 but <6 years old), State laws usually provide that they may be secured in either a safety belt or a child passenger protection device. About half of the States provide for a medial or physical exemption from these requirements.

Motorcycle & Bicycle Helmet Use Laws.

Most State laws mandate that **only** motorcycle operators and passengers under 18 years old wear protective headgear when operating or riding on a motorcycle. A few States now require children to wear a safety helmet when riding a bicycle. Note: Despite numerous legal challenges, the courts have held motorcycle helmet usage laws to be constitutional. *Validity of Traffic Regulations Requiring Motorcyclists to Wear Helmets or Other Protective Headgear*, 72 ALR5th 607

Required Use of Motorcycle Eye Protection Device.

Most State laws provide that, regardless of age, operators and, in some cases, passengers of motorcycles wear an eye protection device (e.g., goggles) while operating or riding on a motorcycle. However, the law normally provides an exemption to this requirement if the motorcycle is equipped with a windscreen or

windshield.

Fines. Unless noted, the fines reported do **not** include court costs or bail schedule forfeitures.

COMMERCIAL MOTOR VEHICLES

Federal law requires that persons, who operate certain commercial motor vehicles, wear a safety belt. This requirement applies to persons operating a vehicle that either (1) has a gross weight rating or combination gross weight rating of ≥10,001 lbs. (≥4,537 kilograms), (2) is designed to carry >15 persons (>8 persons if for compensation) including the driver or (3) is used to transport hazardous materials. 49 CFR 390.5 & 392.16 The sanctions for violating this requirement are a fine of at least \$100 but not more than \$500 for a first offense and at least \$200 but not more than \$500 for a second offense. 49 USC 526

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SUMMARY TABLE OF STATE VEHICLE OCCUPANT PROTECTION LAWS

S T A T E	SAFETY BELT USE LAWS ¹				CHILD RESTRAINT USE LAWS ²				MOTORCYCLE HELMET USE LAW ³			
	Enforcement	Passengers	Fine (\$)	Points	Age	Weight (lbs)	Fine (\$)	Points	Age	Fine (\$)	Points	
AL	Primary	Front Seat	25		<4		10		All	100 ⁴	2	
AK	Secondary	All	15		<4		50	2	<18	300	2	
AZ	Secondary	Front Seat	10		<5		50		<18	250		
AR	Secondary	Front Seat	25		<6	<60	100		<21	50	3	
CA	Primary	All	20		<6	<60	100 ⁴	-- ⁵	All	100 ⁴		
CO ⁶	Secondary	Front Seat	15		<4	<40	50		-- ⁷			
CT	Primary	Front Seat	15/37 ⁸		<4	<40	100 ⁴		<18	90		
DE	Secondary	Front Seat	20		<4		28.75		<19		2	
DC	Primary	All	50	2	<3		55	-- ⁹	All	25	2	
FL	Secondary	Front Seat ¹⁰	30		≤5		60	3	(<21) ¹¹	30		
GA	Primary	Front Seat	15		≤4		50 ⁴	1 ¹	All	1,000		
HI	Primary	Front Seat ¹²	45		<4		100 ⁴		<18	1,000		
ID	Secondary	Front Seat	5		<4		100		<18	100		
IL	Secondary	Front Seat	25		<4		50 ⁴		-- ⁷			
IN	Primary	Front Seat	25		<4		25	4	<18	500	4	
IA	Primary	Front Seat	25		<3		25		-- ⁷			
KS	Secondary	Front Seat	10		<3		20		<18	30		
KY	Secondary	All	25		-- ¹³		50		(<21) ¹⁴	500		
LA	Primary	Front Seat	25 ⁴		<5		50		(<18) ¹⁵	50		

SUMMARY TABLE OF STATE VEHICLE OCCUPANT PROTECTION LAWS
(continued)

S T A T E	SAFETY BELT USE LAWS¹				CHILD RESTRAINT USE LAWS²				MOTORCYCLE HELMET USE LAWS³			
	Enforcement	Passengers	Fine (\$)	Points	Age	Weight (lbs)	Fine (\$)	Points	Age	Fine (\$)	Points	
ME	Secondary	All	50		<4		500		--¹⁶			
MD	Primary	Front	25		<4	≤40	25		All	500		
MA	Secondary	All	25		<5	≤40	25		All	35⁴		
MI	Primary	Front Seat	25		<4		10		All	100		
MN	Secondary	Front Seat	<4		<4		50		<18	200		
MS	Secondary	Front Seat	25		<4		25		All	100⁴		
MO	Secondary	Front Seat	10		<4		25		All	25		
MT	Secondary	All	20		<2		100		<18	5		
NE	Secondary	Front Seat	25		<4	<40	25⁴	--¹⁷	All	1 50		
NV	Secondary	All	25		<5	<40	100		All	1,000	2	
NH	Primary	<18	25⁴		<4		25²⁵		<18	1,000		
NJ	Primary	Front Seat	20		<5		25		All	25		
NM	Primary	All	25	2	<5		25	2	<18	300		
NY	Primary	Front Seat	50		<4		100	3	All	100		
NC	Primary	Front Seat¹⁸	25		<5	<40	25		All	25		
ND	Secondary	Front Seat	20		<4		None	1	<18	500	2	
OH	Secondary	Front Seat	25		<4	<40	100⁴	--¹⁹	<18	100⁴		
OK	Primary	Front Seat	20		<4	<60	10		<18	500		
OR	Primary	All	75		<6²⁰	<60²⁰	75		All	75		

SUMMARY TABLE OF STATE VEHICLE OCCUPANT PROTECTION LAWS
(continued)

S T A T E	SAFETY BELT USE LAWS ¹				CHILD RESTRAINT USE LAWS ²				MOTORCYCLE HELMET USE LAWS ³			
	Enforcement	Passengers	Fine (\$)	Points	Age	Weight (lbs)	Fine (\$)	Points	Age	Fine (\$)	Points	
PA	Secondary	Front Seat	10		<4		25		All	25		
RI	Secondary	All	50		<7	<80	50		<21 ²⁰	50 ²¹		
SC	Secondary ³⁰	All	25		<6 ¹¹	<80 ¹¹	25		<21	100		
SD	Secondary ²²	Front Seat ²³	20		<5		20		<18	200		
TN	Secondary	Front Seat	50 ²⁴		<4		50		All	50		
TX	Secondary	Front Seat ²⁵	50		<4		200		(<21) ²⁶	50		
UT	Secondary	All	45		<2		45		<18	750		
VT	Secondary	All	10		<5		25		All	175	2	
VA	Secondary	Front Seat	25		<4		50	3	All	200		
WA	Secondary	All	35		<6 ²⁷	<60 ²⁷	35		All	35		
WV	Secondary	Front Seat	25		<3		20		All	100		
WI	Secondary	All ²²	10		<4		75		>18	200		
WY	Secondary	All	25 ²⁸		≤4	≤40	50 ⁴		<18	200 ⁴		

FOOTNOTES

1. These columns report information about mandatory safety belt usage for motor vehicle operators and passengers who are ≥16 years old.
2. These columns report information only about the required use of child passenger protection devices. Some States provide for a weight criteria for child restraint device use as an alternative to age.
3. The information in these columns applies only to motorcycle operators.
4. This is the maximum fine or point assessment for a first offense.
5. For a 2nd or subsequent offense within 37 months, 1 point is assessed.
6. The sanction given applies only to vehicles that are driven by persons <17 years old.

SUMMARY TABLE OF STATE VEHICLE OCCUPANT PROTECTION LAWS
(continued)

7. This State does not require motorcycle operators to wear a head protection device.
8. Statutory law provides for a maximum fine of \$15 for this offense. However, the infraction fine schedule established by the superior court has set a maximum fine of \$37 for the same offense.
9. It may be possible to assess two points against a person's driving record.
10. However, all passengers, who are <18 years old, must wear a safety belt.
11. A person, who is over 21 years old, may operate or ride on a motorcycle without protective headgear provided they have at least \$10,000 in medical benefits for any injuries they may sustain as a result of a crash while riding on such motor vehicle.
12. Back seat passengers, who are ≥4 but ≤ years old, must be restrained in a safety belt.
13. The requirement to use a child safety device applies if the child is ≤40 inches tall.
14. The following persons are required to wear State approved headgear when operating or riding on a motorcycle: (1) An operator or passenger who is <21 years old (including a passenger <21 years old who is riding in a sidecar attachment); (2) any operator who possess a motorcycle instruction permit; and, (3) any operator who has possesses a motorcycle permit for <1 year.
15. A person ≥18 years old, who chooses not to wear a safety helmet, must be covered by a health insurance policy which has at least \$10,000 in benefits for bodily injuries.
16. The requirement to wear protective headgear applies only to operators either who are driving a motorcycle on a learner's permit or who have within one year successfully completed a motorcycle driving test.
17. It may be possible to assess one point against a person's driving record.
18. Front seat passengers ≥16 years old and all passengers <16 years old must be secured in a safety belt.
19. It may be possible to assess two points against a person's driving record.
20. This age limit applies only to motorcycle operators. Motorcycle passengers must wear protective headgear regardless of their age.
21. This fine is per the statutory fine schedule. However, the statutory provision establishing this offense provides for a different fine sanction.
22. Primary enforcement for passengers ≥5 but <18 years old.
23. All passengers ≥5 but <18 years old must be secured in a properly fastened safety belt system.
24. If the defendant chooses not to make a court appearance, the maximum fine is either \$10 for a first offense or \$20 for a second or subsequent one.
25. However, all passengers ≥4 but <15 years old, who are occupying a seating position with a safety belt, must be secured in such belt.
26. A person, who is ≥21 years old, may apply for an exemption from wearing a safety helmet provided they either (1) have successfully completed a motorcycle operator training and safety course or (2) are covered by a health insurance plan that provides the person with at least \$10,000 in medical benefits which will cover the costs of any injury sustained while operating or riding on a motorcycle.
27. The State of Washington's law on child passenger protection provides for various types of device use depending upon a child's age and weight.
28. This maximum sanction is for a violation committed by a driver. If the offender is a passenger, the maximum fine is \$10. Note: If a person is cited for a violation of the traffic laws, they may have their fine reduced by \$10 if they were wearing a safety belt.
29. The State of Oregon's law on child passenger protection provides for various types of device use depending upon a child's age and weight

SUMMARY TABLE OF STATE VEHICLE OCCUPANT PROTECTION LAWS
(continued)

30. A law enforcement officer must not stop a driver for a violation of these requirements in the absence of another violation of the motor vehicle laws. However, the following exceptions apply. An officer may issue a citation based either (1) on probable cause that a violation has occurred based on a "clear and unobstructed view" of drivers of passengers who are ≤ 17 years old; or, (2) on stops made at checkpoints established for the purpose of checking driver licenses or vehicle registrations.
31. The State of South Carolina's law on child passenger protection provides for various types of device use depending upon a child's age and weight.
32. Other than front seat passengers (e.g., rear seat passengers) are only required to wear a safety belt if the restraint system has a shoulder harness.

JURISDICTION:
General Reference:

ALABAMA
Code of Alabama

Required Use of Safety Belts:

Requirements:

An operator or front seat passenger of a "passenger car" (i.e., a motor vehicle designed to carry ≤ 10 persons but does not include motorcycles or trailers) shall have a safety belt properly fastened about their body any time the vehicle is in motion. §§32-5B-2 & 32-5B-4(a)

Enforcement. A violation of this requirement does not constitute probable cause to search a vehicle. §32-5B-5 In addition, under a separate uncodified statute, "[a] law enforcement officer may not search or inspect a motor vehicle, its content, the driver or a passenger solely because of a violation" of this requirement. §4 of Public Act 397 (1999)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: A fine of not more than **\$25**. §32-5B-5 Note: A violation of this requirement is not to be entered on the driving record of the vehicle operator. §§32-5A-8(a) & 32-5B-7 No court costs can be assessed for a violation of this requirement. §3 of Public Act 397 (1999)

Effect on Civil Liability: Failure to wear a safety belt shall not be a considered as evidence of contributory negligence and shall not limit the liability of an insurer. §32-5B-7

Required Use of Child Safety Restraint Systems:

Requirements:

Every person, who is transporting a child < 6 years old in a motor vehicle that is registered in this State, shall properly restrain such child

¹**Exemptions.** Vehicle operators or passengers are exempt from the safety belt use requirement in the following circumstances: (1) Children, who are required to a child passenger restraint system; (2) persons, who for medical reasons, are unable to use a safety belt; (3) rural letter carriers while on office duty with the U.S. Postal Service; (4) a person (driver or passenger) who is delivering newspapers or mail; (5) passengers riding in vehicles with a model year prior to 1965; and, (6) passengers riding in motor vehicles which normally operate in reverse. §32-5B-4(b)

²Under separate provisions of law, a person must wear a safety belt when operating a school bus while transporting children. Failure to use a safety belt is *prima facie* evidence of nonfeasance of duty and subjects the driver to dismissal. In addition, if pupil transportation services are being provided for under a contract with a private firm, such a failure shall constitute a breach of contract by the private contractor. §16-27-6

³No points are to be assessed for a violation of this requirement. Regulation 760-X-.07 and UTC Offense Codes Note: Despite the fact that (1) no points can be assessed and (2) the law does not specifically authorize licensing action for such a violation, an offender may still be subject to licensing action. Under general provisions of the law, the courts are authorized to issue an order that forbids a person, who has been convicted of a traffic offense, from operating a motor vehicle for either an established period of time or perpetually. §32-5-316

⁴A bicycle passenger, who either weights < 40 lbs. or who is < 40 inches in height, must be properly seated in and adequately secured in a restraining seat by the bicycle operator. §32-5A-283(2) Note: For offenders, who are < 16 years old, the sanctions for this offense appear to be the same as for failure to use a bicycle safety helmet under §32-5A-285. However, the law is not clear as to the sanctions that could be imposed on offenders who are ≥ 16 years old. It may well be that the general penalty provisions for misdemeanor offenses under the vehicle code, §32-5A-8, apply. These sanctions are listed under the section that provides penalties for failure to use protective motorcycle headgear.

ALABAMA

Required Use of Child Safety Restraint Systems: (continued)

Requirements: (continued)

in a child passenger restraint system that meets Federal standards.⁵ §32-5-222(a)

Note: This requirement does not apply to trucks or buses weighing ≥ 1 ton. §32-5-222(a)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor: A fine of not more than \$10.³ §§32-5-222(c) & 32-5A-8(a)

Effect on Civil Liability:

I. In no event shall the failure to wear a child passenger restraint system be considered as contributory negligence. §32-5-222(a)

II. This law, §32-5-222, does not create a duty or standard of care, right or liability between a parent and a child. §32-5-222(b)

Required Use of Motorcycle Protective Headgear:

Requirements:

No person shall operate or ride upon a motorcycle or motor-driven cycle unless they are wearing protective headgear that complies with State law.⁶ §§32-5A-245 & 32-12-41

Sanctions for Failure to Use:

I. Misdemeanor: 1st offense-Imprisonment for not more than 10 days and/or a fine of not more than \$100 2nd offense (within one year)-Imprisonment for not more than 30 days and/or a fine of not more than \$200 3rd or subsequent offense (within one year)-Imprisonment for not more than 3 months and/or a fine of not more than \$500 §32-5A-8(a) & (b)

II. Even though the law does not specifically authorize licensing action for this offense, an offender may be subject to such action. In general, for a traffic law violation, the courts are authorized to issue an order that forbids a person from operating a motor vehicle for either an established period of time or perpetually. §32-5-316

III. A person's driving record is assessed 2 points for a violation of this requirement. §32-5A-195, Regulation 760-X-.07 and UTC Offense Codes

Required Use of Motorcycle Eye Protection Device:

Requirements:

None There are no specific requirements. However, this topic is generally covered above under the use of protective headgear.

Sanctions for Failure to Use:

⁵For children who are 4 or 5 years old, a "child passenger restraint system" that meets Federal standards is defined by statute to include seat belts that have been installed in the motor vehicle. §32-5-222(a)

⁶This requirement does not apply to persons who are riding in an enclosed cab. §32-5A-245(c)

Required Use of Bicycle Protective Headgear:

Requirements:

A person < 16 years old, who operates or rides on a bicycle, must wear a protective bicycle helmet. §32-5A-283(1)

Sanctions for Failure to Use:

1st offense-A police officer shall (1) counsel and provide the offender with written information on bicycle helmet safety and (2) instruct the offender to deliver the information to a parent. §32-5A-285(1)

2nd offense-A police officer shall counsel and provide the offender with written information on bicycle helmet safety. In addition, a warning citation shall be issued to the offender who is to give such citation to his/her parent. The citation instructs the parent (or guardian) to contact the police for information about the bicycle helmet law and where to obtain a bicycle safety helmet. §32-5A-285(2)

3rd offense-A police officer shall counsel the offender, confiscate the bicycle and take the offender to their residence. A warning citation shall be issued to either the parent or guardian. If such person is not available, the citation shall be left at the residence with instructions to pick up the bicycle at the police station. §32-5A-285(3)

4th offense-The bicycle shall be confiscated and the offender taken to their residence. A parent of guardian is subject to a fine of \$50.⁷ There are no court costs or fees for this offense. §32-5A-285(4)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None

Sanctions for a Violation:

Exemptions:

⁷The fine or penalty is waived or suspended if the operator or passenger presents proof of purchase of a bicycle safety helmet along with an intention of using such device. §32-5A-285(4) Note: Fines collected for this offense are only to be used to fund local school system safety education programs or the purchase of bicycle helmets for persons who are financially disadvantaged. §32-5A-285(5)

ALABAMA

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

ALASKA
Alaska Statutes and Alaska Administrative Code (AAC)

Required Use of Safety Belts¹:

Requirements:

- I. A person may not operate a motor vehicle unless they are restrained by a safety belt. §28.05.095(a)(1)
- II. Persons ≥ 16 years may not occupy a motor vehicle while being driven unless they are restrained by a safety belt. §28.05.095(a)(2)
Secondary Enforcement. A law enforcement officer cannot stop or detain a motor vehicle to determine compliance with the requirements of I and II above unless the vehicle has been stopped or detained for some other violation of the law. §28.05.095(e)
- III. A driver may not transport a person ≥ 4 but < 16 years old unless such person is properly secured in a safety device that is appropriate for that person and that has been approved by the U.S. Department of Transportation. §28.05.095(b)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

- I. Infraction: For a violation of I or II above, a fine of not more than **\$15²**. §28.05.099(a)
- II. Infraction: For a violation of III above, a fine of not more than **\$50**. §28.05.099(b)
- III. Licensing action: For a violation of III above, a person may be assessed points against their driving record.³ §28.05.099(b)

Effect on Civil Liability:

No statutory provision.⁴

Required Use of Child Safety Restraint Systems¹:

Requirements:

A driver may not transport a person < 4 years old unless that person has been properly secured in a child safety device for infants that has been approved by the U.S. Department of Transportation. §28.05.095(b)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

- I. Infraction: Not more than **\$50**. §28.05.099(b)

¹**Exemptions.** The use of either safety belts or child passenger safety devices is not required under the following circumstances: (1) For passengers in school buses unless such buses are required by the U.S. Department of Transportation to have such belts for passengers; (2) for vehicle operators who are either delivering mail or newspapers; (3) for persons or classes of persons who have been exempted via regulations because of either physical or medical reasons; and (4) for persons riding in motor vehicles that are not required to have safety belts. §§28.05.095(c) & 28.05.096(a)

²As an alternative, an offender may donate **\$15** to the Emergency Medical Services entity that provides services in the area where the violation occurred. §28.05.099(a)

³The point schedule does not give a specific point value for this offense. However, there is a 2 point assessment for violations of the traffic laws for which points can be assessed but no point value has been established. 13 AAC 08.210(21)

⁴Via case law, the failure to use a safety belt is "relevant evidence for the purpose of damage reduction" (724 P.2d at 1199) in automobile accident situations that result in bodily injuries. *Hutchins v. Schwartz*, 724 P.2d 1194 (Alaska 1986)

ALASKA

Required Use of Child Safety Restraint Systems: (continued)

Sanctions for Failure to Require
the Use of Child Restraint Systems: (continued)

II. Licensing action: A person may be assessed points against their driving record.³ §28.05.099(b)

Effect on Civil Liability:

No statutory provision.⁴

Required Use of Motorcycle Protective Headgear:

Requirements:

A person⁵ operating or riding on a motorcycle must wear protective headgear that complies with either Federal government or nationally recognized standards. §28.05.011 and 13 AAC 04.350(a)

Sanctions for Failure to Use:

Infraction: A fine of not more than \$300.³ §28.40.050(c)

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person operating a motorcycle must wear an eye-protection device that complies with nationally recognized standards. This requirement does not apply if the motorcycle is equipped with either a windscreen or a windshield. §28.05.011 and 13 AAC 04.350(b)

Sanctions for Failure to Use:

Infraction: A fine of not more than \$300.³ §28.40.050(c)

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None Note: Even though there is no statutory authority prohibiting this activity, the safety belt usage and child safety restraint system laws may indirectly establish such a prohibition.

Sanctions for a Violation:

Exemptions:

³Regulatory law provides that "[e]xcept as provided by statute, a person operating or riding upon a motorcycle or motor-driven cycle upon a public roadway must wear protective headgear...." 13 AAC 04.350(a) Statutory law provides that "[a] person who is 18 years of age or older may not be required to wear a helmet while operating a motorcycle if the person is the holder of a license or endorsement to operate a motorcycle." §28.35.245(b) Note: This statutory provision appears to apply only to operators but not to passengers.

JURISDICTION:
General Reference:

ARIZONA
Arizona Revised Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

I. A front seat occupant of a motor vehicle² is required to use either lap or lap and should belt combination while the vehicle is in motion. §28-909(A)

II. A driver must insure that front seat passengers <16 years old comply with the above requirement. §28-909(B)

Secondary Enforcement. A law enforcement officer shall not stop or issue a citation for a violation of this requirement unless the vehicle was stopped for some other motor vehicle law violation. §28-909(C)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Civil Penalty: A fine of not more than \$10³ for each violation. §28-909(G)

Note: A violation of this requirement cannot be used as a basis for suspending or revocation an offender's driving privileges. §28-909(D)

Effect on Civil Liability:

No statutory provision.⁴

Required Use of Child Safety Restraint Systems⁵:

Requirements:

A person transporting a child, who is <5 years old, must restrain such child in an Federally approved child passenger restraint system. §28-907(A) & (B)

Note: There appears to be no point assessment for this offense.

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Civil Penalty: A fine of \$50³. §28-907(C)

Effect on Civil Liability:

No statutory provision.

¹**Exemptions.** The requirement does not apply (1) to children, who are subject to being restrained via a child safety seat; (2) to persons, who via a written statement from a physician, are unable for physical or psychological reasons cannot wear a shoulder or lap belt; and, (3) to letter carriers of the U.S. Postal Service while on official duties. §28-909(F)

²This requirement applies to persons operating or riding in motor vehicles (1) that are designed to carry ≤10 persons, (2) that were manufactured after model year 1972 and (3) that must be equipped with safety belts under Federal law. §28-909(A)

³An offender is also subject to assessments which can be ≤60% of the fine imposed. §§12-116.01 & 12-116.02

⁴In a case decided prior to the enactment of the mandatory safety belt use law, the Arizona Supreme Court held that failure to use a safety belt can be considered in whether to apportion damages in automobile accident injury situations. I.e., damages can be reduced if the persons seeking damages have failed to use a safety belt. *Law v. Superior Court of State of Ariz.*, 755 P.2d 1135 (Ariz. 1988)

⁵**Exemptions.** A motor vehicle operator does not have to comply with the mandatory child restraint provisions under the following circumstances. (1) The operator is driving a vehicle that was not manufactured with passenger restraint systems. (2) The operator is driving a recreational vehicle defined in §41-2142. (3) The operator is driving a commercial motor vehicle. (4) A person is transporting a child in an emergency in order to obtain medical care. (5) Due to the size of the passenger compartment of the vehicle, the operator cannot secure all of the children that must be restrained. However, the operator must restrain at least one such child and must restrain as many such children as is possible under the conditions. §28-907(G)

ARIZONA

Required Use of Motorcycle Protective Headgear:

Requirements:

A person, who is <18 years old, shall not operate or ride on a motorcycle unless they wear a protective helmet. §28-964(A)

Sanctions for Failure to Use:

Civil Traffic Offense: Not more than **\$250**.³ §§28-121(B) & 28-1598
Note: There appears to be no point assessment for this offense.

A person's failure to wear a protective helmet can be admitted into evidence to reduce the amount of damages such person will be awarded as a result of injuries they sustained in a traffic accident. However, it must be shown that such a failure contributed to the person's injuries. *Warfel v. Cheney*, 758 P.2d 1326 (Ariz.App. 1988)

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person operating a motorcycle shall wear an eye protection device (e.g., glasses, goggles, et al.) unless the motorcycle is equipped with a protective windshield. §28-964(A)

Sanctions for Failure to Use:

Civil Traffic Offense: Not more than **\$250**.³ §§28-121(B) & 28-1598
Note: There appears to be no point assessment for this offense.

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None

Sanctions for a Violation:

Exemptions:

JURISDICTION:
General Reference:

ARKANSAS
Arkansas Code Annotated

Required Use of Safety Belts¹:

Requirements:

When a motor vehicle² is in operation, every driver and front seat passenger shall wear a seat belt.³ §27-37-702(a)

Secondary Enforcement. A motor vehicle cannot be stopped solely to determine if its occupants are in compliance with this requirement. §27-37-704

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Violation.⁴ A fine of not more than \$25⁵. §27-37-706(a)

Note: No points are assigned to a person's driving record for a violation of this requirement. Regulation 2-27-16-907(a)(4) The State shall not include a violation of this requirement in a traffic report. §27-37-707

Effect on Civil Liability:

The failure to wear a safety belt cannot be admitted into evidence at a civil action except in limited products liability cases. §27-37-703

Required Use of Child Safety Restraint Systems⁶:

Requirements:

A driver, who transports a child <15 years old in a passenger automobile, van, or pickup truck (but not vehicles operated for hire), shall secure such child in a child passenger restraint system that

¹**Exemptions.** The requirement to use a safety belt does not apply in the following situations: (1) To passenger automobiles manufactured prior to January 1, 1968 and to all other vehicles manufacture prior to January 1, 1972; (2) to passengers and drivers who have a physical condition that would make the use of a safety belt inappropriate; (3) to children who are required to be restrained in a child safety seat; and, (4) to drivers who are rural letter carriers for the United States. §27-37-702(b)

²For purposes of safety belt usage, a "motor vehicle" means any motor vehicle except a school bus, church bus, or other public conveyance which is required by Federal law or regulation to be equipped with a passenger restraint system. §27-37-701(1) However, "[t]he driver or operator of a school bus shall wear a seat belt at all times while operating the school bus whenever the bus is so equipped." §6-19-109

³Any motor vehicle passenger, who is riding with a person holding an instruction permit, must be secured in a safety belt. §27-16-802(a)(4) A person, who violates this provision, is subject to the following general misdemeanor sanctions for violating the motor vehicle laws: For a 1st offense, a jail term of not more than 10 days and/or a fine of not more than \$100; for a 2nd offense (within 1 year), a jail term of not more than 20 days and/or a fine of not more than \$200; and, for a 3rd offense (within 1 year), a jail term of not more than 6 months and/or a fine of not more than \$500. §27-50-305

⁴he offense would normally be considered a misdemeanor per §27-37-101. However, the criminal code, Title 5, provides that, if an offense is punishable by only a fine, it is classified as a violation. §§5-1-105(b)(3) & 5-1-108(b)

⁵No court or other costs can be assessed. §27-37-706(b) Note: A fine for a moving violation is reduced by \$10, if the offender was in compliance with the safety belt use law, when stopped by a law enforcement officer. §27-37-705

⁶**Exemptions.** A driver does not have to comply with the child safety seat requirement under the following circumstances: (1) The motor vehicle is being used as an ambulance or other emergency vehicle; (2) an emergency exists that threatens the life of either the driver or child; and, (3) because of medical reasons, the child is unable to be restrained. §27-34-105

ARKANSAS

Required Use of Child Safety Restraint Systems: (continued)

Requirements: (continued)

complies with Federal standards.⁷ §27-34-104(a)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Violation. A fine of not less than **\$25** nor more than **\$100**. §§5-1-105(a) & (b), 5-1-8(a) and 27-34-103(a) Note: No points are assigned to a person's driving record for a violation of this requirement. Regulation 2-27-16-907(a)(4)

Effect on Civil Liability:

The failure to provide or use a child passenger safety seat shall not be considered, under any circumstances, as evidence of comparative or contributory negligence.⁸ §27-34-106(a) A Federal court has interpreted this provision as also precluding the admission of evidence concerning the mitigation of damages. *Potts v. Benjamin*, 882 F.2d 1320 (8th Cir. 1989)

Required Use of Motorcycle Protective Headgear:

Requirements:

All motorcycle passengers and riders <21 years old "shall be equipped" with protective headgear. §27-20-104(b)(1)

Sanctions for Failure to Use⁹:

Misdemeanor: Imprisonment for not more than **30 days** and/or a fine of not less than **\$10** nor more than **\$50**. §27-20-102

Required Use of Motorcycle Eye Protection Device:

Requirements:

All motorcycle passengers and riders (regardless of age) "shall be equipped" with protective glasses, goggles or transparent face shields. §27-20-104(b)(2)

Sanctions for Failure to Use⁹:

Misdemeanor: Imprisonment for not more than **30 days** and/or a fine of not less than **\$10** nor more than **\$50**. §27-20-102

Required Use of Bicycle Protective Headgear:

Requirements:

None

⁷The law provides that a driver can comply with this general requirement in two ways. (1) A driver, who transports a child who is either <6 years or who weighs <60 lbs., must secure such child in a Federally approved child passenger restraint system. §27-34-104(b) (2) However, a driver, who transports a child who is either ≥6 years old or who weighs ≥60 lbs., satisfies the general requirement if they secure such a child in a safety belt. §27-34-104(c)

⁸In addition, the failure to provide or use a child passenger safety seat is not to be considered as evidence of negligent homicide. §27-34-106(b)

⁹The point system regulations, Regulation 2-27-16-907(a)(4), do not specifically assign points for this violation. It is doubtful that this offense would be considered a "moving violation" under these regulations for which 3 points are assigned for violations of the traffic laws where no point value has been specifically established. See discretionary licensing action for habitual traffic law offenders under §27-16-907.

Required Use of Bicycle Protective Headgear:
(continued)

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle¹⁰:

Requirements:

No person shall ride upon any portion of a vehicle that is not designed or intended for the use of passengers. §27-35-104(a)

Sanctions for a Violation⁹:

Misdemeanor: 1st offense-Imprisonment for not more than **10 days** and/or a fine of not more than **\$100**.
2nd offense (within 1 year)-Imprisonment for not more than **20 days** and/or a fine of not more than **\$200**.
3rd or subsequent offense (within 1 year)-Imprisonment for not more than **6 months** and/or a fine of not more than **\$500**. §§27-35-101 & 27-50-305(b)

Exemptions:

This requirement does not apply either (1) to employees engaged in the discharge of official duties or (2) to persons riding within bodies of trucks in a space intended for merchandise. §27-35-104(b)

¹⁰In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

ARKANSAS

JURISDICTION:
General Reference:

CALIFORNIA
West's Annotated California Codes

Required Use of Safety Belts¹:

Requirements:

- I. No person shall operate a motor vehicle² unless such person and all passengers ≥ 16 years old are properly restrained by a safety belt. This requirement does not apply to taxicab operators driving on city streets but only when they are engaged in transporting fare-paying passengers. Veh. Code §27315(d)(1) & (e)
- II. No person shall operate either a limousine for hire or an emergency vehicle¹ unless the operator and front seat passengers who are ≥ 4 years old or who weigh ≥ 40 lbs., are restrained by a safety belt. Veh. Code §27315(d)(2)
- III. No person shall operate a taxicab unless front seat passengers who are ≥ 4 years old or who weigh ≥ 40 lbs., are restrained by a safety belt. Veh. Code §27315(d)(3) Note: Veh. Code §27315 has been held to be constitutional. *People v. Coyle*, 251 Cal.Rptr. 80 (Cal.Super. 1988) (This is a lower court opinion.)
- IV.³ No driver shall transport a child and no parent/legal guardian (when present in a motor vehicle) shall allow their child to be transported in a motor vehicle², who is either (1) ≥ 6 but < 16 years old or (2) < 6 years old and weighs ≥ 60 lbs., unless such child is properly secured in a Federally approved child restraint system or safety belt. Veh. Code §27360.5(a) & (b)

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To operator or passengers who have either a physical or mental condition, duly certified by a physical or chiropractor, that would make it inappropriate for such person to use a safety belt; (2) to a public employee (operator or passenger) or to a non-employee passenger behind the front seat of an emergency vehicle while riding in such vehicle unless such use is required by the governmental agency; (3) to persons delivering newspapers while they are in the process of making deliveries; (4) to rural delivery carriers for the U.S. Postal Service while delivering mail; (5) to passengers ≥ 16 years old who are using a "sleeper berth;" and, (6) to drivers while collecting solid waste or recyclable materials. Veh. Code §27315(e), (g), (n), (o) & (p) Note: The law does not provide for a specific exemption for persons riding in motor vehicles that are not required to be equipped with safety belts under Federal law. Nevertheless, the law does not require the installation of safety belts on vehicles that are not required to be equipped with such belts under Federal law. Veh. Code §27315(f) In addition, State law provides that used vehicles, manufactured prior to January 1, 1972, do not have to be equipped with safety belts prior to sale. Veh. Code §27314(a)

School Buses. I. On school buses that are equipped with safety belts, the State Board of Education must adopt regulations requiring passengers of such vehicles to use a passenger restraint system. However, no person, school district or organization may be charged with a violation of this requirement if a passenger either fails to use or improperly uses such a restraint system. II. Unless prohibited by Federal law or regulations, all school buses manufactured after January 1, 2002 and purchased or leased for use in the State shall be equipped with safety belts for all seating positions. Such safety belts shall (1) consist of a "combination pelvic and upper torso passenger restraint system" and (2) comply with 49 CFR 571.209 & 571.210. Education Code §38047.5 & Vehicle Code §27316

²"Motor vehicle" means any passenger vehicle, any motortruck or truck tractor. However, the term does not include motorcycles. Veh. Code §§27315(c) & 27360.5 **Important.** The requirements of IV and V also apply to persons who are transporting children in a fully enclosed three-wheeled motor vehicles that are not less than 7 feet in length, that are not less than 4 feet in width and that have an unladen weight of 900 lbs. or more. Veh. Code §27315.1

³**Exemptions.** (1) The court may exempt a child from the use of a child passenger restraint system if it determines that the use of such a system would be impractical due to child's physical unfittness, medical condition or size. (2) In situations where there is no child passenger restraint system and where there is either a life threatening emergency or a child is being transported in an emergency vehicle, a child is exempt from being secured in such a system but must, nevertheless, be secured in a safety belt. (3) In addition, a child weighing > 40 lbs. may be transported in the back seat while wearing only a lap safety belt if the vehicle does not have rear seat lap shoulder safety belt combinations. Veh. Code §27363(a), (b) & (c)

CALIFORNIA

Required Use of Safety Belts: (continued)

Sanctions for Failure to Use or Require the Use of Safety Belts⁴:

I. **For a Violation of I, II & III Above.** Infraction⁵: 1st offense-A fine of not more than \$20 including any penalty assessment and court costs and an additional penalty assessment of \$2. Subsequent offense-A fine of not more than \$50 including any penalty assessment and court costs and an additional penalty assessment of \$5. Veh. Code §27315(h) & (i) In lieu of the above fine, a 1st offender may be ordered to attend traffic school in which the proper use of safety belts is demonstrated. Veh. Code §27315(h) Note: It appears that no points are assigned for a violation of these requirements.

II. **For a Violation of IV.** Infraction⁵: 1st offense-A fine of \$100⁶ 2nd or subsequent offense-A fine of \$250⁶ Veh. Code §27360.5(c)(1) & (2) For either a 1st or subsequent violation, a person's driving record is assessed 1 point. Veh. Code §12810(j) Effect on Civil Liability: A violation of the requirements of I II & III above shall not establish negligence as a matter of law or negligence per se in any civil action for comparative fault purposes. Nevertheless, negligence may be proven as a fact without regard to the violation. Veh. Code §27315(j)

Required Use of Child Safety Restraint Systems³:

Requirements:

No driver shall transport and no parent/legal guardian (when present in a motor vehicle) shall allow their child to be transported in a motor vehicle⁷, except for children, who are ≥6 years old or who weigh ≥60 lbs., unless such child is properly secured in a Federally approved child passenger restraint system. Veh. Code §27360(a) & (b) See IV under Required Use of Safety Belts.

³**Special State Penalty (Fine).** An additional State penalty of \$10 is assessed against every defendant for every \$10 of a fine (or fraction thereof) actually imposed and paid by a defendant. Penal Code §§1463(h) & 1464(a)

Special County Penalty (Fine). An additional county penalty of \$7 is assessed against every defendant for every \$10 of a fine (or fraction thereof) actually imposed and paid by a defendant. Gov't. Code §76000 and Penal Code §§1463(h) & 1464

Note: The portion of any fine that has been either suspended or reduced is not considered when calculation these assessments.

⁴If the imposition of a fine for an infraction would impose a hardship on an offender or their family, the court may sentence such person perform community service in lieu of the "total fine" (i.e., the base fine, all assessments, penalties and additional monies). Penal Code §1209.5

⁶For either a 1st or subsequent offenders, this fine is waived if a defendant is economically disadvantaged and the court, instead, refers this person to a child restraint education program. Veh. Code §27360.5(c)(1) & (2)

⁷The term "motor vehicle" means any passenger vehicle, motortruck or truck tractor. Veh. Code §§27315(c) & 27360(a) In addition, child passenger restraint requirements apply to children who are being transported in a fully enclosed three-wheeled motor vehicles that are not less than 7 feet in length, that are not less than 4 feet in width and that have an unladen weight of 900 lbs. or more. Veh. Code §27368

Required Use of Child Safety Restraint Systems:
(continued)

Sanctions for Failure to Require
the Use of Child Restraint Systems⁴:

Infraction⁵: 1st offense-A fine of **\$100**⁸ 2nd or subsequent offender-A fine of **\$250**⁸ Veh. Code §27360(c)(1) & (2) For either a 1st or subsequent offense, a person's driving record will be assessed 1 point. Veh. Code §12810(j)

Effect on Civil Liability:

Required Use of Motorcycle Protective Headgear:

Requirements:

When riding on a motorcycle⁹ a driver or passenger must wear a safety helmet meeting national standards. Veh. Code §27803(a)

Sanctions for Failure to Use⁴:

Infraction⁵: 1st offense-A fine of not more than **\$100** 2nd offense (within 1 year)-A fine of not more than **\$200** 3rd and subsequent offense (within 1 year)-A fine of not more than **\$250** Veh. Code §42001(a). No points are assigned for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

No specific requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

A person <18 years old shall not operate or ride on a bicycle unless they are wearing a bicycle helmet that complies with national standards. Veh. Code §21212(a)

Sanctions for Failure to Use⁴:

Infraction⁵: 1st offense-There is **no fine**. Subsequent offense-A fine of not more than **\$25** Veh. Code §21212(d)(2) & (e) No points are assigned for a violation of this requirement.

Required Use of Bicycle Eye Protection Device:

Requirements:

None

⁸For 1st or subsequent offenders, this fine is waived if a defendant is economically disadvantaged and the court, instead, refers this person a child restraint education program. Veh. Code §27360(c)(1) & (2)

⁹This requirement also applies to persons operating or riding on motor-driven cycles or motorized bicycles. Veh. Code §27803(d) However, this requirement does not apply to persons operating or riding in a fully enclosed three-wheeled motor vehicles that are not less than 7 feet in length, that are not less than 4 feet in width and that have an unladen weight of 900 lbs. or more provided the vehicle meets or exceeds all of the safety requirements of the California Vehicle Code and the Federal Government (i.e., Federal Motor Vehicle Safety Standards). Veh. Code §27803(f)

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CALIFORNIA

Prohibition Against Riding in Unsecured Portion of Vehicle¹⁰:

Requirements:

I. A vehicle operator shall not allow a person to ride upon any part of a vehicle that is not designed or intended for passenger use. Veh. Code §21712(a) II. No person shall ride on vehicle or upon any part of a vehicle that is not designed or intended for passenger use. Veh. Code §21712(b) III. No person driving a pickup truck or flatbed motortruck shall transport a person in or on the back thereof unless the passenger is restrained by a Federally approved restraint system. Veh. Code §23116(a) & (c) IV. No person shall ride in or on the back of a pickup truck or flatbed motortruck unless they are restrained by a Federally approved restraint system Veh. Code §23116(b) & (c)

Sanctions for a Violation⁴:

Infraction⁵: 1st offense-A fine of not more than **\$100** 2nd offense (within 1 year)-A fine of not more than **\$200** 3rd or subsequent offense (within 1 year)-A fine of not more than **\$250** Veh. Code §42001(a)
No points are assigned for a violation of these requirements.

Exemptions:

I. The prohibitions contained in Veh. Code §21712(a) & (b) do not apply in situations where a passenger either (1) is an employee discharging duties or (2) is riding completely within or upon vehicle body. Veh. Code §217129(c) II. The prohibitions contained in Veh. Code §23116(a) & (b) do not apply if a person is being transported in the back of the vehicle (1) owned by a rancher/farmer within the boundaries of lands owned by the rancher/farmer or on a highway for not more than 1 mile between parts of the ranch/farm, (2) as a result of an emergency situation and at the direction of a public agency and (3) as part of an authorized parade at a speed of ≤8 MPH. Veh. Code §23116(d), (e) & (f)

¹⁰Such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.
Note: On March 31, 2000, the law will prohibit a person from transporting a person in a farm labor vehicle that does not comply with Federal safety belt requirements (49 CFR 571.207). Veh. Code §31406

JURISDICTION:
General Reference:

COLORADO
Colorado Revised Statutes

Required Use of Safety Belts¹:

Requirements²:

I. A driver and front seat passengers of a motor vehicle³ shall wear a safety belt while the vehicle is being operated. §42-4-237(2)

Secondary Enforcement. A law enforcement officer cannot cite a driver for a violation of §42-4-237(2) unless the driver was stopped for some other traffic law violation. §42-4-237(5)

II. A driver of either a noncommercial passenger vehicle or a vehicle operated by a child care center, who transports a child ≥ 4 but < 16 years old and who weighs ≥ 40 lbs., must secure such child in a safety belt system.⁴ §42-4-236(2)(b) & (c)

Sanctions for Failure to Use or
Require the Use of Safety Belts²:

I. A violation of I above is a Class B Traffic Infraction: A fine of \$15 and a surcharge of \$2.⁵ §§42-4-237(4) & 42-4-1701(4)(a)(I)(D)

II. A violation of II above is a Class B Traffic Infraction: A fine of \$50 and a surcharge of \$6.⁵ §§42-4-236(7) & 42-4-1701(4)(a)(I)(D)

Note: Except as noted in Footnote No. 2, it appears that no points are assessed for a violation of these requirements.

Effect on Civil Liability:

I. Evidence of a failure to wear a safety belt in violation of I above shall be admissible to mitigate damages. However, such mitigation is limited only to awards for pain and suffering. §42-4-237(7)

II. A violation of II above shall not constitute negligence per se or contributory negligence per se. §42-4-236(6)

¹**Exemptions.** This requirement does not apply in the following situations: (1) To a child who must be restrained according to §42-4-236; (2) to a member of an ambulance team, except the driver, when involved in patient care; (3) to certain law enforcement officers when performing official duties; (4) to persons who are exempt from wearing safety belts because of physical or psychological conditions; (5) to persons who are riding in motor vehicles that do not have safety belts because such vehicles are exempt from having such equipment; (6) to rural letter carriers of the U.S. Postal Service while performing official duties; and, (7) to persons who are actually performing delivery or pickup services. §42-4-237(3)

²**Vehicles Driven by Persons Under 17 Years Old.** I. Under separate statutory provisions, occupants of a vehicle driven by a person, who is < 17 years old, shall wear a safety belt under §42-4-237 or be secured in a child restraint system under §42-4-236(2)(a). §42-2-105.5(3) Also, in vehicles driven by such persons, only one passenger may occupy the front seat and the number of rear seat passengers cannot exceed the number of available safety belts. §42-2-105.5(4) II. A violation of these requirements is a Class A Traffic Infraction for which the offender is subject to a fine \$15 to \$100. §§42-4-105.5(5) & 42-4-1701(3)(a)(I) In addition, a driver < 17 years old who fails to comply with these requirements has 2 points assessed against their driving record. §42-2-127(5)(hh) & (ii)

³The term "motor vehicle" means either a passenger car, a station wagon, a van, a taxicab, an ambulance, a motor home or a pickup truck. However, the term does not include either a motorcycle, a motorscooter, a motorbicycle, a motorized bicycle, a passenger bus, a school bus, farm tractor or implements of husbandry. §42-4-237(a)

⁴**Exemptions.** This requirement does not apply in the following circumstances: (1) To children where all seating positions with either safety belts or child restraint systems are occupied; (2) to children who are being transported as a result of a medical emergency; (3) to children who are being transported in certain commercial motor vehicles that are operated by child care centers; and, (4) to children (≥ 16 years old) who are operating motor vehicles and who must comply with mandatory safety belt use requirements. §42-4-236(3)

⁵An offender may be ordered by the court to attend a course of instruction on traffic laws, hazardous driving situations and accident prevention. §42-4-1717

COLORADO

Required Use of Child Safety Restraint Systems⁴:

Requirements²:

A driver of either a privately owned noncommercial passenger vehicle or a vehicle operated by a child care center, who transports a child <4 years old and who weighs <40 lbs., must properly secure such child in a child restraint system. §42-4-236(2)(a) & (c)

Sanctions for Failure to Require the Use of Child Restraint Systems²:

Class B Traffic Infraction: A fine of **\$50** and a surcharge of **\$6**.⁵ §§42-4-236(7) & 42-4-1701(4)(a)(I)(D) Note: Except as noted in Footnote No. 2, it appears that no points are assessed for a violation of this requirement.

Effect on Civil Liability:

A violation of this statutory provision shall not constitute negligence per se or contributory negligence per se. §42-4-236(6)

Required Use of Motorcycle Protective Headgear:

Requirements:

None⁶

Sanctions for Failure to Use:

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person shall not operate or ride on a motorcycle or motor-driven cycle unless they are wearing goggles or eyeglasses with lenses made of safety glass or plastic per standards promulgated by the State. §42-4-232(1)

Sanctions for Failure to Use:

Class A Traffic Infraction: A fine of **\$15** and a surcharge of **\$2**.⁵ §§42-4-232(4) & 42-4-1701(4)(a)(I)(D) Note: It appears that no points are assessed for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

⁴Evidence of a person's failure to wear a protective helmet is inadmissible to show either negligence of the person or to mitigate damages. *Dare v. Sobule*, 674 P.2d 960 (Colo. 1984)

Prohibition Against Riding in Unsecured Portion of Vehicle⁷:

Requirements:

I. A person is prohibited from riding on the outside, top, hood or fenders or any other portion of a vehicle except that they may ride, while in a sitting position, in the cargo area of a vehicle if the area is fully or partially enclosed on all four (4) sides. §42-4-201(6)

II. A driver shall not knowingly permit a person to ride on the top, hood or fenders or any other portion of a vehicle except that a passenger may ride, while in a sitting position, in the cargo area of a vehicle if the area is fully or partially enclosed on all four (4) sides. §42-4-201(6)

Sanctions for a Violation:

Class A Traffic Infraction: A fine of \$35 and a surcharge of \$4.⁵ §§42-4-201(8) & 42-4-1701(4)(a)(I)(D) Note: It appears that no points are assessed for a violation of these requirements.

Exemptions:

The above prohibitions do not apply (1) to officially authorized parades, caravans or exhibitions or (2) to vehicles owned by either the U.S. Government, the State of Colorado and its political subdivisions, Federal or State government contractors, or public utilities. §42-4-201(7)

⁷In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

COLORADO

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

CONNECTICUT
Connecticut General Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

- I. The operator and front seat passengers ≥ 16 years old in a private passenger motor vehicle², fire fighting apparatus or vanpool vehicle shall wear safety belts while the vehicle is in motion. §14-100a(c)(1)
II. A vehicle operator shall secure in a safety belt any passenger ≥ 4 but < 16 years old. §14-100a(c)(1)

Enforcement. The failure to wear a safety belt as required by law shall not constitute probable cause for a law enforcement officer to conduct a search of a vehicle and its contents. §54-33m

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Infraction: A fine of **\$15 (\$37)**.³ §14-100a(c)(5)

Note: No points can be assessed against a driver's record for violating this requirement. §14-100a(c)(5)

Effect on Civil Liability:

Failure to wear a safety belt shall not be considered as contributory negligence nor shall such failure be admissible evidence in any civil action. §14-100a(c)(4)

Required Use of Child Safety Restraint Systems:

Requirements:

A person, who transports a child < 4 year old and weighing < 40 lbs., in a motor vehicle⁴, must require that such child be secured in an approved child restraint system.⁵ §14-100a(d)

¹**Exemptions.** The requirement to use a safety belt does not apply to persons whose physical disability or impairment would prevent restraint in a safety belt. §14-100a(c)(2)

²A "private passenger motor vehicle" is defined to include (1) a private passenger type automobile, (2) station-wagon-type automobile, (3) camper-type motor vehicle, (4) high-mileage-type motor vehicle, (5) truck type motor vehicle, with a load capacity of $\leq 15,000$ lbs., and registered as either a passenger motor vehicle or as a passenger and commercial motor vehicle or (6) a vehicle with a commercial registration. The term does not include motorcycles or motor vehicles used as a public or livery conveyance. §§14-100a(c)(1) & 38a-363(e) In addition, the term does not mean (1) an authorized emergency vehicle, except fire fighting equipment responding to an emergency call, (2) vehicles operated by rural letter carriers of the U.S. Postal Service while performing official duties or (3) vehicles used by persons engaged in the delivery of newspapers. §14-100a(c)(3) Note: The law does not provide for a specific exemption for persons riding in motor vehicles that are not required to be equipped with safety belts under Federal law. However, State law, requiring the installation of safety belts in "new" passenger motor vehicles, became effective in 1963. This law does not require that vehicles manufactured prior to 1963 be equipped with such belts

³The fine schedule established by the superior court (as of October 1, 1998) provides a fine of **\$37** for a violation of the safety belt use law's requirements. However, for infractions, the maximum fine that can be imposed appears to be limited to that which is specifically provided for via statute. In the case of a violation of these requirements, the law, §14-100a(c)(5), has established, what appears to be, a maximum fine of **\$15**. §§51-164m(b), (d) & (f) and 51-164n(b) & (h)

⁴A "motor vehicle" does not include a bus having tonnage rating ≥ 1 ton. §14-100a(d)

⁵**Alternative.** As alternative to using a child restraint system, a driver may secure a child < 4 years old and weighing ≥ 40 lbs., in a safety belt. §14-100a(d)

CONNECTICUT

Required Use of Child Safety Restraint Systems: (continued)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

1st offense (Infraction)-A fine of \$60⁶ 2nd offense (Violation)-A fine of not more than \$199 3rd or subsequent offense (Class A Misdemeanor)-An imprisonment sentence of not more than 1 year and/or a fine of not more than \$2,000 §§14-100a(d), 53a-24, 53a-27, 53a-36 & 53a-42 A 1st or 2nd offender may be required to attend a course on child car seat safety. §§14-100a(d)

Note: It appears that no points are assessed for a violation of this requirement.

Effect on Civil Liability:

Failure to use a child safety restraint system shall not be considered as contributory negligence nor shall such failure be admissible evidence in any civil action. §14-100a(d)

Required Use of Motorcycle Protective Headgear⁷:

Requirements:

No person <18 years old may operate or ride on a motorcycle unless they are wearing State approved protective headgear. §14-289g(a)

Sanctions for Failure to Use:

Infraction: A fine of not less than \$90. §14-289g(c) Note: It appears that no points are assessed for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device⁸:

Requirements:

A person, who operates a motorcycle, must wear goggles, glasses or a face shield as approved by the State.

Sanctions for Failure to Use:

Infraction: A fine of not more than \$50. §§14-289d(b) & 14-296 Note: It appears that no points are assessed for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

A child ≤15 years old shall not ride a bicycle on a highway unless they are wearing appropriate protective headgear.⁹ §14-286d(b)

⁶The law provides that the judges of the superior court shall establish a fine schedule for infractions. The fines established cannot be less than \$35 nor more than \$90. As of October 1, 1998, the fine schedule provides for a \$60 fine for an "infraction" violation of the child safety seat requirement. §§51-164m(a) & (c)

⁷The Connecticut Superior Court has held that the failure to use protective headgear (helmet) is not negligence. In addition, the court determined that a person is not required to mitigate damages by wearing such a device. *Ruth v. Poggie*, 1993 Conn. Super. LEXIS 3090

⁸**Exemptions.** This requirement does not apply if the motorcycle has a wind screen or windshield. §14-289d(b)

⁹Failure to wear protective headgear as required by law shall not be considered to be contributory negligence on the part of a parent or child no shall such failure be admissible in any civil action. §14-286d(b)

Required Use of Bicycle Protective Headgear:
(continued)

Sanctions for Failure to Use:

There are no sanctions for a violation of this requirement. However, a law enforcement officer may issue a verbal warning to the parent or guardian of a child that has violated this requirement. §14-286d(b) & (c)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle¹⁰:

Requirements:

No person shall operate and carry a passenger < 16 years on in an open bed of a truck type vehicle¹¹ or other vehicle. However, such passengers are allowed to ride in such open spaces provided they are properly restrained in a safety belt. §14-272a(a)

Sanctions for a Violation:

Infraction: A fine of not more than \$50. §§14-272a(b) & 14-296 Note: It appears that no points are assessed for a violation of this requirement.

Exemptions:

This prohibition does not apply in the following situations: (1) To a vehicle used in an authorized parade; (2) to a vehicle when such is used for farming purposes; and, (3) to a vehicle used for a recreational hayride in the months of August and December. §14-272a(a)

¹⁰In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

¹¹A truck type vehicle with a gross vehicle weight rating not exceeding 7,500 lbs. §14-272a(a)

CONNECTICUT

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

DELAWARE
Delaware Code Annotated

Required Use of Safety Belts¹:

Requirements:

I. When a motor vehicle (except motorcycles, tractors or off-highway vehicles) is in operation, a driver shall wear and shall secure all front seat passengers in a safety belt. Title 21, §§101(20) and 4802(a)(1), (a)(2) & (b)

Secondary Enforcement. A motor vehicle shall not be stopped by a police officer for failing to comply with this section. Title 21, §4802(d)

II. When being transported in a motor vehicle, a child ≥ 4 but < 16 years old shall wear a safety belt at all times. Title 21, §4803(b)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

I. For a violation of I above², a Penalty Assessment of 40 % of the fine or fines imposed for other traffic laws committed at the time of the safety belt law violation. However, no assessment can be **>\$20**. Title 21, §4802(g)(2)a Note: Neither shall any points be assessed against a person nor shall an entry made on such person's driving record because of a violation of the safety belt use requirement. Title 21, §4802(h)

II. For a violation of II above², a fine of not more than **\$28.75**. Title 21, §4803(e)

Note: It appears that no points are assessed for a violation of these requirements.

Effect on Civil Liability:

I. Failure to wear a safety belt, per I above, shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim adjudication. In addition, such a failure is not admissible as evidence in the trial of any civil action or insurance claim adjudication. Title 21, §4802(i)

II. A failure to secure a child ≥ 4 but < 16 years old in a safety belt shall not be considered as evidence of either comparative or contributory negligence in any civil suit or of criminal negligence or recklessness in any criminal action. Evidence of such failure cannot be admitted into evidence at a civil trial. Title 21, §4803(f)

Required Use of Child Safety Restraint Systems³:

Requirements:

I. A person, who is transporting a child < 4 years, shall properly secure such child in a Federally approved child passenger restraint system. Title 21, §4803(a) Note: See II under Require Use of Safety Belts above.

II. A child, who is ≤ 65 inches and who is < 12 years old, cannot occupy the front passenger seat of a motor vehicle that is equipped with a passenger-side airbag unless such airbag has been "deliberately rendered

¹Exemptions. This requirement does not apply in the following circumstances: (1) To persons, who for medical or physical reasons, are unable to wear a safety belt; (2) to persons riding in motor vehicles that do not have to be equipped with safety belts; and, (3) to letter carriers of the U.S. Postal Service when performing official duties. Title 21, §4802(c)

²A violation is a misdemeanor offense. Title 11, §233(c)

³Exemptions. The requirement to use a child passenger restraint system does not apply if the child is being transported in a motor bus, limousine or taxicab. Title 21, §4803(a)

DELAWARE

Required Use of Child Safety Restraint Systems: (continued)

Requirements: (continued)

inoperable."⁴ Title 21, §4803(c) (¶1) Note: This requirement is repealed on January 1, 2003 "provided new federal regulations regarding safer deployment of airbags are in effect." §2 of Chapter 480, Session Laws of 1998

Secondary Enforcement. A violation of requirement II is "considered a secondary offense, and no motor vehicle shall be stopped by a police officer solely for failure to comply with this section." Title 21, §4803(c) (¶2)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

A fine of not more than \$28.75.² Title 21, §4803(e) Note: It appears that no points are assessed for a violation of this requirement.

Effect on Civil Liability:

A violation of these requirements shall not be considered as evidence of either comparative or contributory negligence in any civil suit or of criminal negligence or recklessness in any criminal action. Evidence of such failure cannot be admitted into evidence at a civil trial. Title 21, §4803(f)

Required Use of Motorcycle Protective Headgear:

Requirements:

A person <19 years old shall wear a safety helmet, that has been approved, by the State when operating or riding a motorcycle.⁵ Title 21, §4185(b)

Sanctions for Failure to Use:

1st offense-A fine of not less than \$25 nor more than \$115² Subsequent offense (within 12 months)-An imprisonment term of not less than 10 days nor more than 30 days and/or a fine of not less than \$57.50 nor more than \$250² Title 21, §4205(a) Two (2) points are assessed for a violation of this requirement. Title 21, §§302 & 2733 and Department of Public Safety Police Regulation No. 45

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

⁴**Exemptions.** I. This requirement does not apply to vehicles that are equipped with passenger-side airbags that are "specifically designed or modified by the vehicle's manufacturer for use by children and small adults." Title 21, §4803(c) (¶1) II. In addition, this requirement does not apply in situations where the airbag has not been "deliberately rendered inoperable" if either (1) the vehicle does not have a rear passenger seat or (2) "all rear passenger seats are occupied by other children" who are ≤65 inches in heights and <12 years old. Title 21, §4803(c) (¶2)

⁵Motorcycle operators or passengers ≥ 19 years old are required to have a safety helmet in their possession but are not required to use it. Title 21, §4185(b)

Required Use of Bicycle Protective Headgear:

Requirements:

A person < 16 years shall not operate or ride a bicycle unless they wear a properly fitted and fastened bicycle helmet which meets national standards.⁶ Title 21, §4198L(a)

Sanctions for Failure to Use:

A child's guardian who fails to cause the child to wear such helmet is subject to a fine. 1st offense-\$25² Subsequent offense-\$50² Title 21, §4198L(b)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None⁷

Sanctions for a Violation:

Exemptions:

⁶Failure to wear a bicycle safety helmet shall not be considered evidence of either comparative or contributory negligence in any civil suit nor shall such evidence be admissible as evidence in the trial of any civil action. Title 21, §4198L(e)

⁷Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

DELAWARE

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

DISTRICT OF COLUMBIA
D.C. Code and Weil's Code of D.C. Municipal Regulations (CDCR)

Required Use of Safety Belts¹:

Requirements:

The driver and all passengers in a motor vehicle² shall wear safety belts.
D.C. Code §40-1602(a) Note: Except for vehicles for hire, a driver is responsible for insuring that passengers comply with this requirement.
D.C. Code §40-1606(f)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Civil Infraction: A fine of \$50. The mayor is authorized to increase this fine penalty. D.C. Code §40-1606(b)(2) & (e) A vehicle operator has 2 points assigned to their driving record. D.C. Code §40-1606(d)

Effect on Civil Liability:

A violation of this requirement shall not constitute evidence of negligence, evidence of contributory negligence or a basis for a civil action for damages. A violation shall not be used as the basis for mitigating damages arising from a civil liability. D.C. Code §40-1607

Required Use of Child Safety Restraint Systems³:

Requirements:

I. A motor vehicle operator shall not transport a child <3 years old unless such child has been secured in a child restraint seat which conforms to Federal standards. D.C. Code §§40-1203(a) & 40-1204
II. A motor vehicle operator shall not transport a child between 3 and 16 years old unless such child has been restrained in either a safety belt or child restraint seat. D.C. Code §40-1203(b)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Infraction: A fine of \$55.⁴ D.C. Code §40-1206(a) D.C. Municipal Regulations provide for a fine of only \$25. CDCR 18-26-2600.1

Effect on Civil Liability:

A violation of the above requirements shall not constitute evidence of negligence, evidence of contributory negligence or a basis for a civil action for damages. D.C. Code §40-1207

¹**Exemptions.** This requirement does not apply in the following circumstances: (1) To persons riding in motor vehicles manufactured before July 1, 1966; (2) to persons who are unable to wear a safety belt for medical reasons; and, (3) to passengers where all of the seating positions with seat belts are occupied by other persons. However, the driver is required to insure that passengers ≤ 16 years old have preference to seating positions with seat belts over passengers who are > 16 years old. D.C. Code §40-1602(b) and CDCR 18-7-737.1 & 18-7-737.2

²For the purposes of safety belt usage, a "motor vehicle" is defined as a device with more than 3 wheels and a seating capacity of 8 or less. D.C. Code §40-1601(1)

³**Exemptions.** I. This requirement does not apply to children who are being transported in vehicles used for livery, sightseeing, taxi, ambulance, funeral, or farm purposes or who are being transported in a motor vehicle with a seating capacity of more than 8 passengers not including the driver. D.C. Code §40-1202(5)

II. "A parent or legal guardian may transport his or her own child without restraint herein if that person is transporting a number of his or her own children of less than 16 years of age which exceeds the number of passenger positions equipped with safety belts in the motor vehicle. However, an unrestrained child may not be transported in the front seat of a motor vehicle." D.C. Code §40-1203(c)

⁴The law is not specific but a person may have 2 points assessed against their driving record. CDCR 18-3-303.1(b)

DISTRICT OF COLUMBIA

Required Use of Motorcycle Protective Headgear:

Requirements:

Persons operating or riding on a motorcycle must wear helmets that comply with nationally approved standards. D.C. Code §40-703 and CDCR 18-7-741.1

Sanctions for Failure to Use:

Infraction: A fine of \$25.⁴ CDCR 18-26-2600.1

Required Use of Motorcycle Eye Protection Device:

Requirements:

Persons operating or riding on a motorcycle must wear safety eye protection devices that comply with nationally approved standards. D.C. Code §40-703 and CDCR 18-7-742.1

Sanctions for Failure to Use:

Infraction: A fine of \$25.⁴ CDCR 18-26-2600.1

Required Use of Bicycle Protective Headgear:

Requirements:

I. A person <16 years old shall wear either ANSI or Snell Memorial Foundation approved protective headgear when operating or riding on a bicycle. D.C. Code §§40-1405(a) & (e) and 40-1409(5)
II. A parent or legal guardian or a person <16 years old shall not knowingly permit such person to operate or ride a bicycle without wearing approved protective headgear. D.C. Code §1405(b)

Sanctions for Failure to Use:

A parent or legal guardian is subject to a \$25 fine. D.C. Code §40-1405(c)

Note: Failure to wear protective headgear shall not be considered evidence of either negligence per se, contributory negligence or assumption of the risk in a civil suit. D.C. Code §1406

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

(1) No person shall ride and (2) no driver shall allow a person to ride on any portion of any vehicle which is not designed or intended for the use of passengers. D.C. Code §40-703 and CDCR 18-22-2213.6

Sanctions for a Violation:

Infraction: A fine of \$25.⁴ CDCR 18-26-2600.1

Exemptions:

This prohibition does not apply to an employee engaged in the necessary discharge of their duties or to persons riding within truck bodies in a space intended for materials.⁵ CDCR 18-22-2213.6

⁵This exemption may not apply due to the provisions of the safety belt and child restraint laws.

JURISDICTION:
General Reference:

FLORIDA
Florida Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

I. A driver cannot operate a motor vehicle² unless they and every passenger <18 years old is restrained by a safety belt. §316.614(4)
II. A front seat passenger ≥18 years old must secure themselves in a safety belt while a motor vehicle² is in motion. §316.614(5)
Secondary Enforcement. Before a person can be charged with a violation of these requirements, the driver of the motor vehicle used in the violation must have been detained either for another violation of Chapter 316 (Traffic Control/Rules of the Road) of Title XXIII or for a violation of either Chapter 320 (Motor Vehicle Registration) or Chapter 322 (Drivers' Licenses) under this same title. §316.614(8)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Nonmoving Traffic Violation³: A fine of \$30 with court costs of \$6.⁴
§§316.614(8), 318.14 and 318.18(2) & (11)

Exemptions. This requirement does not apply in the following circumstances: (1) To persons who have a medical condition that would cause the use of safety belt to be either inappropriate or dangerous; (2) to persons while in the course of delivering newspapers; (3) to employees of a solid waste or recyclable collection service while in the course of employment; or (4) to persons riding either in the living quarters of a recreational vehicle or in the space within a truck body primarily intended for merchandise or property. §316.614(6)(a), (c) & (d) Note: "The number of front seat passengers of a pickup truck required to wear a safety belt pursuant to this section [§316.614] shall not exceed the number of safety belts which were installed in the front seat of such pickup truck by the manufacture." §316.614(6)(b)

School Buses. I. All school buses purchases after December 31, 2000 must be equipped with safety belts or other restraint systems that satisfy U.S. Government standards (49 CFR 571.208). II. Each school bus passenger grades pre-kindergarten through 12 must wear a safety belt when these vehicles are in operation. However, school bus operators are not required to wear safety belts via a vehicle exemption under §316.614. III. The law exempts from civil liability either governmental entities (the State, counties, school districts, or individuals (school bus operators, agents or employees (e.g., teachers or volunteers serving as chaperones) of a school district), in the two (2) following situations: Either (1) For an injury by a school bus passenger solely because the injured party was not wearing a safety belt; or, (2) for a personal injury by a school bus passenger for an injury caused solely by another passenger's use or non-use of a safety belt or restraint system in a dangerous or unsafe manner. §316.6145 Note: This law does not state who is responsible (e.g., the vehicle operator) for insuring that the intended school bus passengers wear safety belts (restraints) as required and does not provide for a specific sanction for its violation. However, if a sanction can be imposed, it will be the same as for a violation of the safety belt use law. See Footnote No. 3. §§318.14(1) & 318.18

²This requirement does not apply to persons operating the following types of vehicles: (1) A school bus; (2) a bus used to transport persons for compensation; (3) a farm tractor or other implement of husbandry; (4) a truck weighing > 5,000 lbs.; and (5) motorcycles, mopeds or bicycles. §316.614(3)(a) Note: State law does not specifically exempt vehicles that are not required to have safety belts under Federal law.

³I. For either a nonmoving or moving traffic infraction, an offender may elect to have a charge adjudicated before a "designated official." A person electing adjudication waives any rights they may have to the civil penalties under §318.18. The hearing officer is authorized to impose a fine of not more than \$500 or require a person to attend a driver improvement school. §318.14(5)
II. A person, who commits a noncriminal traffic infraction, may, in lieu of a court appearance, elect, only once within a 12 month period, to attend a driver improvement course. If such occurs, adjudication is withheld and points cannot be assessed against the person's driving record. In addition, the civil penalty imposed under §318.18(3) must be reduced by 18 percent. §318.14(9)

Possible Licensing Action. For any violation of the traffic laws, the court has the authority to either suspend or revoke a driver's license if it determines that there exists a need to protect persons who use the highways. In determining whether to take such action, the court considers among other things the extent or nature of the violation and whether, as a result of the violation, there was either a death, personal injury or property damage. The provision providing for this action does not give specific license suspension or revocation periods. §316.655(2) Note: Under §322.28(1), the licensing agency (not the courts) can only suspend or revoke a license for 1 year. However, such agency may be able to issue driving privileges for employment purposes under §322.271.

FLORIDA

Required Use of Safety Belts: (continued)

Effect on Civil Liability:

A violation of these requirements shall not constitute negligence per se nor shall such a violation be used as *prima facie* evidence of negligence or be considered in mitigation of damage, but such a violation may be considered as evidence of comparative negligence, in any civil action. §316.614(9)

Required Use of Child Safety Restraint Systems:

See **School Buses** under Footnote No. 1.

Requirements:

A motor vehicle⁵ operator, when transporting a child ≤5 years old, must secure such child in a Federally approved child restraint device "that is appropriate for the height and weight of the child." Children ≤3 years old must be secured in either a separate carrier or vehicle manufacturer's integrated child seat. Children 4 but ≤5 years old must be secured in either a separate carrier, vehicle manufacturer's integrated child seat or a seat belt.⁶ §316.613(1)(a)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Moving Traffic Violation³: A fine of **\$60** with court costs of **\$10**. §§316.613(5) and 318.18(3)(a) & (11) In addition, 3 points are assessed against a driver's record.⁴ §§316.613(5) & 322.27(d)(6)

Alternative Sanction. In lieu of the above fine and point sanctions, a person, with the court's approval, may elect to participate in a child restraint safety program. §316.613(5)

Effect on Civil Liability:

The failure to provide and use a child passenger restraint shall not be considered comparative negligence, no shall such failure be admissible as evidence in the trial of any civil action with regard to negligence. §316.613(3) & *Parker v. Montgomery*, 529 So.2d 1145 (Fla.App. 1 Dist. 1988)

Required Use of Motorcycle Protective Headgear⁷:

Requirements:

No person⁸ shall operate or ride on a motorcycle unless they are wearing protective headgear which complies with Federal standards.⁹ §316.211(1)

⁵This requirement does not apply to children riding in the following types of vehicles: (1) A school bus that complies with the color and identification requirements of chapter 234 and is used to transport children to or from public or private school or in connection with school activities but not including buses operated by common carriers in urban transportation of school children; (2) a bus used to transport persons for compensation; (3) a farm tractor or other implement of husbandry; (4) a truck weighing >5,000 lbs.; and (5) motorcycles, mopeds or bicycles. §316.03(45) & 316.613(2) Note: State law does not specifically exempt vehicles that are not required to have safety belts under Federal law.

⁶**Bicycles.** A bicycle rider while transporting a child, who is either <4 years old or who weights ≤40 lbs., must secure such child in a seat or carrier that is designed to carry children or that age or weight for the purpose of protecting such child from the bicycle's moving parts. §316.2065(3)(b) A violation of the requirement appears to be a nonmoving violation with a fine of **\$30** with court costs of **\$6**. §§318.14(1) and 318.18(2) & (11)

⁷These requirements do not apply under the following circumstances: To persons ≥16 years old who are operating or riding within an enclosed cab; and, to persons ≥16 years old who are operating or riding upon a motorcycle either (1) with a displacement of ≤50 cubic centimeters, (2) with ≤2 brake horsepower or (3) with a speed capability of ≤30 MPH. §316.211(3)(a)

⁸**Exemption.** A person, who is over 21 years old, may operate or ride on a motorcycle without protective headgear provided they have at least \$10,000 in medical benefits for any injuries that they may sustain as a result of crash while riding on such motor vehicle. §316.211(3)(b)

⁹No person <16 years old shall operate or ride on a moped unless they are wearing protective headgear which complies with Federal standards. §316.211(4)

Required Use of Motorcycle Protective Headgear:
(continued)

Sanctions for Failure to Use:

Nonmoving Traffic Violation³: A fine of \$30 with court costs of \$6.⁴ §§316.655(1), 318.14 and 318.18(2) & (11)

Note: Failure to wear protective headgear may be considered as comparative negligence if it can be shown that such a failure was the proximate cause of the injuries sustained. *Rex Utilities, Inc. v. Gaddy*, 413 So.2d 1232 (Fla.App. 3 Dist. 1982), & *Currie v. Palm Beach County*, 578 So.2d 760 (Fla.App. 4 Dist. 1991)

Required Use of Motorcycle Eye Protection Device⁷:

Requirements:

No person shall operate a motorcycle unless they are wearing an eye-protection device which complies with State standards. §316.211(2)

Sanctions for Failure to Use:

Nonmoving Traffic Violation³: A fine of \$30 with court costs of \$6.⁴ §§316.655(1), 318.14 and 318.18(2) & (11)

Required Use of Bicycle Protective Headgear:

Requirements:

A bicycle rider or passenger < 16 years old must wear a nationally approved bicycle safety helmet.¹⁰ §316.2065(3)(d)

Sanctions for Failure to Use:

Nonmoving Traffic Violation³: A fine of \$30 with court costs of \$6.¹¹ §§316.2065(3)(e) and 318.18(2) & (11)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle¹²:

Requirements:

No person shall ride upon any portion of a vehicle that is not intended for passenger use. §316.2015(2)

Sanctions for a Violation:

Nonmoving Traffic Violation³: A fine of \$30 with court costs of \$6.⁴ §§316.2015(2) and 318.18(2) & (11)

Exemptions:

This prohibition does not apply to an employee engaged in the discharge of official duties or to a person riding within truck bodies in a space intended for merchandise. §316.2015(2)

¹⁰The failure of a person to wear a bicycle helmet or the failure of a parent or guardian to prevent a child from riding a bicycle without wearing a bicycle helmet may not be considered as evidence of negligence or contributory negligence. §316.2065(19)

¹¹Historical Note: Prior to January 1, 1998, a law enforcement officer or crossing guard only issued a bicycle safety brochure and a verbal warning to riders who violated this requirement. §316.2065(3)(e)

¹²In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

FLORIDA

JURISDICTION:
General Reference:

GEORGIA
Code of Georgia Annotate (Code of 1981)

Required Use of Safety Belts:

Requirements:

I. While being transported in a passenger vehicle¹, each front seat occupant (i.e., vehicle operator or passenger) must be restrained by a Federally approved safety belt.² §40-8-76.1(b)

II. A driver transporting a minor³ >4 years old must secure such child in a Federally approved safety belt. §40-8-76.1(e)(3)

Enforcement. (1) Probable cause for a violation of these requirements must be based upon a law enforcement officer's clear and unobstructed view of the unrestrained person. (2) A violation of these requirements cannot constitute probable cause of any other violation of the law. §40-8-76.1(f)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

I. For a violation of I above, a fine of not more than \$15.⁴ The law specifically provides that "the costs of ... prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge ... be assessed." §40-8-76.1(e)(2)

II. For a violation of II above, a fine of not more than \$25.⁴ §40-8-76.1(e)(3)

Effect on Civil Liability: Failure of a motor vehicle occupant to comply with these requirements (1) shall not be considered evidence of negligence, (2) shall not otherwise be considered by the finder of fact on any question of liability of any persons, corporation or insurer, (3) shall not be any basis for cancellation of coverage or increase in insurance rates and (4) shall not be evidence used to diminish any recovery for damages arising out of the ownership, maintenance, occupancy or operation of a motor vehicle. §40-8-76.1(d)

¹For the purposes of the safety belt requirement, the term "passenger vehicle" means every motor vehicle designed to carry ten passengers or less and used for the transportation of persons but shall not mean pickup trucks, motorcycles, motor driver cycles or vehicles equipped for off-road use. However, such term does include (1) sport utility vehicles and (2) pickup trucks for any occupant who is <18 years old. §40-8-76.1(a) Note: The State supreme court has held that this law does not violate constitutional principles of equal protection of the laws even though it excludes adult drivers and passengers from wearing safety belts when operating or riding in pick-up trucks. *Farley v. State*, 531 S.E.2d 100 (Ga. 2000)

²**Exemptions.** The safety belt use requirement for front seat occupants, who are not minors, does not apply in the following circumstances: (1) To operators or passengers of a motor vehicle making frequent stops to deliver property provided the speed of the vehicle between stops is ≤15 MPH; (2) to operators or passengers who are unable to use a safety belt due to medical, physical or other valid reasons; (3) to persons operating passenger vehicles in reverse; (4) to persons riding in vehicles with a model year prior to 1965; (5) to persons riding in vehicles that are not required to have safety belts under Federal law; (6) to rural letter carriers of the U.S. Postal Service while performing official duties; (7) to persons delivering newspapers; and, (8) to persons performing emergency services. §40-8-76.1(c)

³The age of legal majority is 18. Until then, a person is considered a minor. §39-1-1(a)

⁴A violation of this provision is not to be considered a criminal act and is not to be considered a moving violation for purposes of licensing action under §40-5-57. §40-8-76.1(e)(1)

GEORGIA

Required Use of Child Safety Restraint Systems⁵:

Requirements:

A person transporting a child ≤ 4 years old in a motor vehicle⁶ shall secure such child in a Federally approved child passenger restraint system. However, for children, who are either 3 or 4 years old, this requirement is satisfied if they are restrained in a seat belt. §40-8-76(b)(1)

Sanctions for Failure to Require the Use of Child Restraint Systems:

1st offense⁷-A fine of not more than \$50 and 1 point is assessed against an offender's driving record. 2nd or subsequent offense⁷- A fine of not more than \$100 and 2 points are assessed against an offender's driving record. For any offense, the court is prohibited from imposing additional fees or surcharges. §§40-5-57(c)(1)(A) & 40-8-76(2)

Effect on Civil Liability:

A violation of this requirement shall not constitute negligence per se nor contributory negligence per se.⁸ §40-8-76(d)

Required Use of Motorcycle Protective Headgear⁹:

Requirements:

No person shall operate or ride upon a motorcycle unless they are wearing State approved protective headgear.¹⁰ §40-6-315(a)

⁵**Exemption.** This requirement does not apply if a parent or guardian obtains a physician's written statement that explains that a child has a medical condition that prevents them from being restrained in a child passenger protection system. §40-8-76(b)(1)

Bicycles. I. A child < 1 year old cannot be transported on a bicycle unless they are transported either on a bicycle trailer or in an infant sling. §40-6-292(c) II. A child ≥ 1 but ≤ 4 years old cannot be transported on a bicycle unless they are transported either in a child passenger bicycle seat, on a bicycle trailer or in an infant sling. §40-6-292(c) The law specifically provides that a person < 16 years old, who violates these provisions, is subject to neither an imprisonment sentence nor a fine. §40-6-292(f) However, it is misdemeanor for a parent or guardian to knowingly permit a child or ward to violate this provision. §40-6-298(b) The sanctions of this offense are an imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**. §17-10-3(a)(1) A violation of these provisions shall not constitute negligence per se nor contributory negligence per se or be considered evidence of negligence or liability. §40-6-292(f)

⁶For purposes of this requirement, motor vehicle includes either a passenger automobile, van or pickup truck. However, this term does not include a taxicab or public transit vehicle. §40-8-769(b)(1)

⁷This offense appears to be a misdemeanor. However, if the offense is handled via a court's Traffic Violations Bureau, it is considered a traffic violation. §§16-1-3(9) & 40-13-60

⁸Note: A violation of this requirement shall not be the basis for cancellation of coverage or increase in insurance rates. §40-8-76(d)

⁹Note: Failure to wear protective headgear is negligence as a matter of law (i.e., negligence per se). *Green v. Gaydon*, 331 S.E.2d 106 (Ga.App. 1985)

¹⁰This requirement does not apply to either (1) to operators or passengers who are riding within an enclosed cab or motorized cart or (2) to persons who are operating three-wheeled motorcycle used only for agricultural purposes. §40-6-315(c)

Required Use of Motorcycle Protective Headgear:
(continued)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**.¹¹ §§17-10-3(a)(1) & 40-6-1
Note: It appears that no points are assigned for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

If a motorcycle is not equipped with a windshield, no person shall operate or ride on such vehicle unless they are wearing an eye-protective device.⁹ §40-6-315(b)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**.¹¹ §§17-10-3(a)(1) & 40-6-1
Note: It appears that no points are assigned for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

When either operating or riding on a bicycle, a person <16 years old shall wear a bicycle helmet that complies with nationally recognized standards.¹² §40-6-296(e)

Sanctions for Failure to Use:

I. The law specifically provides that a person <16 years old, who violates this provision, is subject to neither an imprisonment sentence nor a fine. §40-6-296(6)
II. However, it is misdemeanor for a parent or guardian to knowingly permit a child or ward to violate this provision. §40-6-298(b) The sanctions of this offense are an imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**.¹⁰ §17-10-3(a)(1)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

¹¹An additional fine equal to 5 % of the original fine is imposed and deposited into the Peace Officer's Annuity and Benefit Fund. §15-21-131

¹²A violation of this requirement shall not constitute negligence per se nor contributory negligence per se or be considered evidence of negligence of liability. §40-6-296(5)

GEORGIA

Prohibition Against Riding in Unsecured Portion of Vehicle¹³:

Requirements:

A person < 18 years old shall not ride in the uncovered bed of a pickup truck on any interstate highway. §40-8-79

Sanctions for a Violation:

A driver, who allows a person < 18 years old to ride in a pickup truck in violation of this prohibition, commits a misdemeanor. The sanctions for this offense are an imprisonment term of not more than 12 months and/or a fine of not more than \$1,000.¹⁰ §§17-10-3(a)(1) & 40-8-79
Note: It appears that no points are assigned for a violation of this requirement.

Exemptions:

¹³In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

HAWAII
Hawaii Revised Statutes

Required Use of Safety Belts¹:

Requirements:

- I. Before operating a motor vehicle, a driver shall restrain themselves and any front or back seat passenger between 4 and 14 years old in a Federally approved seat belt. §291-11.6(a)(1)
- II. Before a motor vehicle is operated, a front seat passenger ≥ 15 years old shall be restrained in a Federally approved seat belt. §291-11.6(a)(2)
- III. Before a motor vehicle is operated, a back seat passenger between 15 and 17 years old shall be restrained in a Federally approved seat belt. §291-11.6(a)(3)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Violation (Non-Criminal): A fine of **\$45** §§291-11.6(e) & 701-107(5)

Effect on Civil Liability:

The enactment of the safety belt law does not change existing law concerning personal injury civil actions related to vehicle accidents.² §291-11.6(d)

Required Use of Child Restraint Systems³:

Requirements:

Before transporting a child < 4 years old in a motor vehicle, the vehicle operator must secure such child in a "child passenger restraint system" approved the Federal Government. §§291-11.5(a)(1) & 291-11.6(a)(1)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Violation (Non-Criminal): 1st offense-A fine of not more than **\$100** 2nd offense-A fine of not more than **\$200** 3rd or subsequent offense-A fine of not more than **\$500** 1st and subsequent offenders are required to take a "Child Passenger Restraint System Safety Class" which is not to exceed 4 hours. Offenders are charged a **\$50** fee to take this course. §§286G-3(a), 291-11.5(e) & 701-107(5)

Effect on Civil Liability:

Failure to comply with these requirement is not considered contributory negligence, comparative negligence or negligence per se. §291-11.5(d)

¹**Exemptions.** Passengers of either emergency vehicles while on official duties (ambulances, firefighting equipment, rescue vehicles and police vehicles) or mass transportation vehicles with a gross vehicles weight rating > 10,000 lbs. (bus, school bus excluding a charter or sightseeing service bus) are exempt from the seat belt requirement. §291-11.6(b)

The seat belt use requirement does not apply in the following circumstances: (1) To persons riding in motor vehicles that do not have to have a safety belt under Federal law; (2) to persons who are unable to use a seat belt because all of the available safety belt assemblies are in use; (3) to persons who have a condition that prevents the appropriate use of a seat belt; (4) to persons operating taxicabs. §291-11.6(c)

²The Hawaii Supreme Court has indirectly held that a person has no common law duty to mitigate damages by wearing a safety belt. *Kealoha v. County of Hawaii*, 844 P.2d 670 (Hawaii 1993)

³**Exemptions.** Operators of emergency, commercial and mass transit vehicles are exempt from the child safety seat requirement. §291-11.5(b) In addition, these requirements do not apply if the number of children to be secured exceeds the number of available seat belt assemblies in the vehicle. However, children, that are not secured, must be placed in the back seat of the motor vehicle. §291-11.5(c)

HAWAII

Required Use of Motorcycle Protective Headgear⁴:

Requirements:	No person <18 years old shall operate or ride on a motorcycle unless they are wearing a State approved safety helmet. ⁵ §286-81(a)(3) & (b)
Sanctions for Failure to Use:	Violation (Non-Criminal): A fine of not more than \$1,000 . §§286-82 & 701-107(5)

Required Use of Motorcycle Eye Protection Device⁶:

Requirements:	No person shall operate or ride on a motorcycle unless they wear safety glasses, goggles or a face shield. §286-81(a)(1)(A)
Sanctions for Failure to Use:	Violation (Non-Criminal): A fine of not more than \$1,000 . §§286-82 & 701-107(5)

Required Use of Bicycle Protective Headgear:

Requirements:	Persons <16 years old shall wear a properly fitted and fastened bicycle helmet ⁷ when operating a bicycle. This requirement also applies to a person who is riding in a restraining seat attached to a bicycle. §291C-150
Sanctions for Failure to Use:	A fine of not more than \$25 . Either a parent or legal guardian of a minor in violation of this requirement is liable for the payment of this fine. §291C-150

Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	

⁴The requirement to use a safety helmet does not apply if the motorcycle (1) has three wheels, (2) is powered by an electric motor, (3) has a full body enclosed cab or (4) has a seat belt assembly or a child restraint system which must used when the vehicle is in motion. §286-81(c)

Persons Under 7 Years Old. A motorcycle operator shall not carry a child <7 years old on a motorcycle unless such vehicle (1) has three wheels, (2) is powered by an electric motor, (3) has a full body enclosed cab or (4) has a seat belt assembly or a child restraint system which must used when the vehicle is in motion. §291-11(a) & (b) A motorcycle operator, who violates this provision, is subject to a fine on not more than **\$200**. §291-11(c)

⁵The Hawaii Supreme Court has held that a person has no common law duty to mitigate damages by wearing a motorcycle safety helmet. *Kealoha v. County of Hawaii*, 844 P.2d 670 (Hawaii 1993)

⁶The requirement to use an eye protection device does not apply if the motorcycle has a windscreen or windshield. §286-81(a)(1)(A)

⁷The helmet must have been approved by a nationally recognized agency (e.g., the National Highway Traffic Safety Administration, National Safety Council, Children's Safety Network, et al.). §291C-150

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements:

- I. No person shall stand in the bed or load-carrying area of a pickup truck⁵ while such vehicle is in motion. §291-14(a)
- II. A driver of a pickup truck⁷ shall not allow a passenger to ride seated in the bed of such a truck unless the following three conditions are satisfied: (1) There no seats available in the vehicle's cab; (2) the side racks and the tailgate are respectively securely attached and securely closed; and, (3) the passengers in the bed are seated on the floor and do not attempt to unlash any cargo. §291-14(a)
- III. A person shall not operate a pickup truck⁷ while any passenger ≤12 years old is in the bed or load-carrying area of the vehicle. §291-14(c)

Sanctions for a Violation:

- I. It is a Non-Criminal "Violation" to violate of either I or II above: Fine of **\$25**. §§291-14(d) & 701-107(5)
- II. It is a Non-Criminal to violate III above: Fine of **\$50**. §§291-14(d) & 701-107(5)

Exemptions:

These requirements do not apply to persons or corporations that are operating a business that serves the public or are under the supervision of State or local authorities that regulate employees while they carry out their duties. §291-14(b)

⁵For the purposes of this prohibition, a "pickup truck" is defined as "a light truck that has a cab on the front part of the vehicle covering the driver's seat and an open bed behind the cab designed primarily to transport property or cargo, with sides and a tailgate to retain the contents within the confines of the bed, and has a maximum gross vehicle weight rating (GVWR) of 11,000 pounds or less." §291-14(e)

HAWAII

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

IDAHO
Idaho Code (General Laws of Idaho Annotated)

Required Use of Safety Belts¹:

Requirements:

All front seat occupants of a motor vehicle² shall be secured in a safety belt when the vehicle is in motion. §49-673(1)

Possible Secondary Enforcement. It appears that a person can only be fined for a safety belt violation which is associated with some other traffic infraction. §49-673(3) I.e., enforcement of this provision must be in conjunction with some other traffic law violation.

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Infraction: A fine of \$5³. §49-673(3) Note: A conviction for this infraction shall neither result in points being assigned to a person's driving record nor be deemed a moving violation for the purpose of establishing rates of motor vehicle insurance. §49-673(3)

Effect on Civil Liability:

The failure to use a safety belt shall not be considered any circumstances as evidence of contributory or comparative negligence, nor shall such failure be admissible as evidence in any civil action with regard to negligence. §49-673(6)

Required Use of Child Safety Restraint Systems⁴:

Requirements:

A person, transporting a child <4 years old and weighing <40 lbs. in a noncommercial motor vehicle⁵ shall secure such child in a "car safety seat" that meets Federal requirements. §49-672(1)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Infraction: A fine of not more than \$100. §§18-113A, 49-110(4) & 49-236(2) Note: The law does not appear to assign points for a violation of this requirement.

¹**Exemptions.** This requirement does not apply in the following circumstances: (1) To persons who are unable to use a safety belt for medical reasons; (2) to persons riding on motorcycles, using implements of husbandry and occupying emergency vehicles; (3) to persons riding in the front seat of a motor vehicle when all of the available safety belts are already in use; and, (4) to mail carriers. §49-673(2)

²This requirement applies only to motor vehicles which have a gross vehicle weight of ≤8,000 lbs. and that comply with Federal Motor Vehicle Motor Vehicle Safety Standard No. 208 (49 CFR 571.208). §49-673(1) Note: This Federal standard applies to passenger motor vehicles manufactured after January 1, 1973.

³Note: The law is not clear as to whether the safety belt use law is only enforceable as a part of some other law enforcement activity or whether such law can be enforced on its own. If the safety belt use law is only enforceable as a part of some other activity, the law appears to provide for just a \$5 fine. §49-673(3) However, if this law can be enforced as a separate independent infraction, a violator could be subject to a fine of not more than \$100. §§18-113A, 49-110(4) & 49-236(2)

⁴**Exemptions.** This requirement does not apply in the following circumstances: (1) If all of the vehicle's seat belts are in use (However, the child must be placed in the vehicle's rear seat.); or, (2) if the child is held by an attendant for the purpose of nursing the child or attending to the child's other immediate physiological needs. §49-672(1)(a) & (b)

⁵This requirement applies to motor vehicles that were manufactured with seat belts after January 1, 1966.

IDAHO

Required Use of Child Safety Restraint Systems: (continued)

Effect on Civil Liability:

The failure to use a child safety seat shall not be considered under any circumstances as evidence of contributory negligence, nor shall such failure be admissible in any civil action with regard to negligence. §49-672(2)

Required Use of Motorcycle Protective Headgear:

Requirements:

No person < 18 years old shall operate or ride on a motorcycle unless they are wearing a State approved protective safety helmet. §49-666

Sanctions for Failure to Use:

Infraction: A fine of not more than \$100. §§18-113A, 49-110(4) & 49-236(2) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None⁶

Sanctions for a Violation:

Exemptions:

⁶Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

ILLINOIS
West's Smith-Hurd Illinois Compiled Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

I. A driver and front seat passengers shall wear safety belts when a motor vehicle is in operation.² §625 ILCS 5/12-603.1(a)³
II. A driver, who is <18 years old, and each of such driver's passengers, who are <18 years old, must wear a safety belt when a motor vehicle is in operation.⁴ §625 ILCS 5/12-603.1(a)
III. A motor vehicle operator transporting a child ≥6 but <16 years old shall secure such child in a safety belt. §625 ILCS 5/12-603.1(a)
Secondary Enforcement. No motor vehicle driver or passenger shall be stopped or searched by a law enforcement officer solely on the basis of a violation or suspected violation of these requirements.⁵ §625 ILCS 5/12-603.1(e)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Petty Offense: A fine of not more than \$25.² §625 ILCS 5/12-603.1(d)
Note: The law does not appear to assign points for a violation of these requirements.

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To a driver or passengers who are operating or riding in a motor vehicle that makes frequent stops for the purpose of delivering property and provided the speed of the vehicle between stops is ≤15 MPH; (2) to drivers and passengers who for medical or physical reasons cannot wear seat belts; (3) to a driver operating a motor vehicle in reverse; (4) to persons operating or riding in motor vehicles either with a model year prior to 1965 or that are not required by Federal law to have seat belts; and, (5) to persons operating or riding on motorcycles, motor driven cycles, or motorized pedalcycles. §625 ILCS 5/12-603.1(b)

²**School Bus Operators.** "No school bus shall be operated unless the driver has properly restrained himself with the lap belt assembly." §625 ILCS 5/12-807 A person, who is convicted of violating this requirement, is subject to the following sanctions. Either a 1st or 2nd violation of this requirement is a Petty Offense with a fine of not more than \$500. A 3rd violation (within 1 year) is a Class C Misdemeanor with an incarceration term of not more than 30 days and/or a fine of not more than \$500. §§625 ILCS 5/16-101 & 16-104 and §§730 ILCS 5/5-8-3(a)(3) & 5-9-1(a)(3)

³The State supreme court has held that this statutes "does not violate the due process clauses of the State and Federal constitutions." *State v. Kohrig*, 498 N.E.2d 1158 (Ill. 1986) (Appeal was dismissed by the U.S. Supreme Court for want of a substantial federal question. 479 U.S. 1073, 107 S.Ct. 1264, 94 L.Ed.2d 126 (1987))

⁴I. Under separate provisions of law, a person <18 years old is not to operate a motor vehicle either with more than one passenger in the front seat or with more passengers in the back seats than there are safety belts. A driver less than 18 years old when operating a second division vehicle, that has only a front seat and that weights ≤8,000 lbs., may transport more than one person in the front seat provided each passenger is wearing a safety belt. §625 ILCS 5/12-603(b-5) II. A person violating these requirements is subject to the following sanctions. A 1st and 2nd offense is a Petty Offense and the offender is subject to a fine of not more than \$1,000. A 3rd or subsequent offense (within 1 year) is a Class C Misdemeanor and the offender is subject to an imprisonment term of not more than 30 days and/or a fine of not more than \$1,500. §§625 ILCS 5/16-104, 730 ILCS 5/5-8-3(a)(3) and 730 ILCS 5/5-9-1(a)(3) & (4)

⁵An appellate court has created a judicial exception to this requirement. If a vehicle has been stopped at a vehicle safety checkpoint, the driver (or passengers) may be issued a citation for failure to wear a safety belt. In brief, the court reasoned that the initial stop was not solely for the purpose of safety belt law enforcement and, consequently, a citation for non belt use could be issued. *People v. Edwards*, 673 N.E.2d 752 (Ill.App. 3 Dist. 1996)

ILLINOIS

Required Use of Safety Belts: (continued)

Effect on Civil Liability:

Failure to wear a seat belt in violation of the law shall not be considered evidence of negligence, shall not limit the liability of an insurer and shall not diminish any recovery for damages arising out of the ownership, maintenance or operation of a motor vehicle. §625 ILCS 5/12-603.1(c)

Required Use of Child Safety Restraint Systems⁶:

Requirements:

I. A person transporting a child <4 years old in a motor vehicle⁷ shall secure such child in a child restraint system that has been approved by the Federal Government.⁸ §625 ILCS 25/4

II. A person transporting a child ≥4 but <16 years old in a motor vehicle⁷ shall secure such child either in a child restraint system that has been approved by the Federal Government or a seat belt. §625 ILCS 25/4a

III. A person, who is <18 years old, when transporting a child, who is ≥6 but <18 years old, in a motor vehicle⁷ must secure such child in a safety belt. §626 ILCS 25/4b

Sanctions for Failure to Require the Use of Child Restraint Systems:

Petty Offense: 1st offense-A fine of not more than \$50 Subsequent offense-A fine of not more than \$100 §625 ILCS 25/6 Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

In no event shall a person's failure to secure a child as provided by law constitute contributory negligence or be admissible as evidence in the trial of any civil action. §625 ILCS 25/5

Required Use of Motorcycle Protective Headgear:

Requirements:

None⁹ Note: "No unit of local government, including a home rule unit, may enact an ordinance requiring motorcycle users to wear protective headgear." §625 ILCS 5/11-208(e)

⁶**Exemptions.** The requirement to use a child passenger restraint system or seat belt does not apply with respect to children who have a physical disability of such a nature as to prevent the proper use of such a system or belt. §625 ILCS 25/7 (1)(3)

⁷For the purposes of this requirement, a "motor vehicle" means (1) a non-commercial motor vehicle of the first division, (2) a motor vehicle of the second division with a gross vehicle weight rating ≤9,000 lbs. or (3) a recreational vehicle. §625 ILCS 25/4 Note: A "first division" motor vehicle is one designed to carry not more than 10 persons. A "second division" motor vehicle is either (1) one that is designed to carry 10 or more persons, (2) one that has living quarters, (3) one that is designed to either pull/ carry freight or cargo or (4) one that is an implement of husbandry. §625 ILCS 5/1-146

⁸For children <4 years old, the parent or legal guardian shall provide a child restraint system to any person who is transporting their child. A person, who transports a child of another that is not restrained in such a system, is not in violation of this requirement unless such a system was provided to the person. §625 ILCS 25/4

⁹Failure to wear protective headgear is not considered to be comparative negligence and thus cannot be used as evidence to mitigate damages. *Hukill v. DiGregorio*, 484 N.E.2d 795 (Ill.App. 2 Dist. 1985)

Required Use of Motorcycle Protective Headgear:
(continued)

Sanctions for Failure to Use:

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person who operates or rides on a motorcycle, motor driven cycle or motorized pedalcycle must be protected by glasses, goggles or a transparent shield.¹⁰ §625 ILCS 5/11-1404(a)

Sanctions for Failure to Use:

1st & 2nd offenses (petty offense)-A fine of not more than **\$1,000**
3rd or subsequent offense (within 1 years) (Class C Misdemeanor)-An imprisonment term of not more than **30 days** and/or a fine of not more than **\$1,500** §§625 ILCS 5/16-104, 730 ILCS 5/5-8-3(a)(3) and 730 ILCS 5/5-9-1(a)(3) & (4) Five (5) points are assessed against a persons's driving record a violation of this requirement. 92 Illinois Administrative Code §1040.20(c)

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None¹¹

Sanctions for a Violation:

Exemptions:

¹⁰Contact lenses are not acceptable eye protection devises. §625 ILCS 5/11-1404(c)

¹¹Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for persons < 18 years old and certain children via the provisions of the Safety Belt Use and Child Safety Restraint Systems laws.

ILLINOIS

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

INDIANA
Burn's Indiana Statutes Annotated and Indiana Administrative Code (IAC)

Required Use of Safety Belts¹:

Requirements:

When a passenger motor vehicle² is in motion, the driver and every front seat passenger shall be secured in a safety belt. §9-19-10-2

Enforcement. A vehicle may be stopped to determine compliance with this requirement. However, neither the vehicle, its contents, driver nor passengers may be searched. §9-19-10-3 & *Baldwin v. Reagan*, 715 N.E.2d 332 (Ind. 1999)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Class D Infraction: A fine of not more than \$25. §§9-19-10-8(a) & 34-28-5-4(d) Note: Points may not be assessed against a person's driving record for a violation of this requirement. §9-19-10-8(b)

Effect on Civil Liability:

Failure to comply does not constitute fault and does not limit the liability of an insurer. §9-19-10-7(a) Except in product liability situations, a failure to comply may not be admitted in a civil action to mitigate damages. §9-19-10-7(b) & (c)

Required Use of Child Safety Restraint Systems³:

Requirements:

I. Before operating a motor vehicle, a driver must secure a child ≥ 4 but < 12 years old in a child passenger restraint system or safety belt. §9-19-10-2.5

II. Before operating a motor vehicle, a driver must secure a child who is < 4 years old in either a child passenger restraint system or, if the child will not fit in such a system, a seat belt. §§9-19-11-2 & 9-19-11-3

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Class D Infraction: A fine of not more than \$25.⁴ §§9-19-10-2.5, 9-19-11-2, 9-19-11-3 & 34-28-5-4(d) Note: An abstract of a violation of this requirement is forwarded to the bureau of motor vehicles for inclusion in the person's driving record. §9-19-11-7 Four (4) points are assessed against a person's driving record. 140 IAC §1-4.5-10

¹**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) To persons who cannot wear a safety belt for medical reasons; (2) to children who are required to use a child passenger restraint system; (3) to persons traveling in commercial or U.S. Postal Service vehicles that make frequent stops for the purpose of picking up or delivering goods and services; (4) to rural letter carriers of the U.S. Postal Service when performing official duties; (5) to persons delivering newspapers; and, (6) to persons performing the duties of a driver license examiner. §9-19-10-1

²The requirement to wear a safety belt applies to passenger motor vehicles that are equipped with safety belts that meet Federal Motor Vehicle Safety Standards (49 CFR 571.208) §9-19-10-2 For the purpose for safety belt usage, the term "passenger motor vehicle" is defined as "a motor vehicle designed for carrying passengers" which includes buses, school buses and private buses but excludes trucks, tractors and recreational vehicles. §9-13-2-123(b)

³**Exemptions.** The requirement that certain children use either a child passenger restraint system or seat belt does not apply to drivers operating either (1) a school bus, (2) a taxicab, (3) a rental vehicle for ≤ 30 days, (4) an ambulance, (5) vehicles not registered in Indiana and operated for ≤ 60 days, (6) a public passenger bus, (7) a vehicle with a seating capacity > 9 individuals and owned by a religious or not-for-profit organization, (8) an antique motor vehicle, (9) a motorcycle, (10) a motor vehicle owned or leased by a governmental unit and that is being used for law enforcement duties and (11) a motor vehicle that is being used in an emergency. §9-19-11-1

⁴This sanction does not apply to first offenders who possess a child passenger restraint system. §9-19-11-5

INDIANA

Required Use of Child Safety Restraint Systems: (continued)

Effect on Civil Liability:

Failure to comply with this requirement does not constitute contributory negligence. §9-19-11-8

Required Use of Motorcycle Protective Headgear:

Requirements:

A person <18 years old shall wear State approved protective headgear when operating or riding on a motorcycle or motorized bicycle. §§9-19-7-1(1), 9-21-10-9 & 9-21-11-13

Sanctions for Failure to Use:

Class C Infraction: A fine of not more than \$500. §§9-19-7-3, 9-21-11-14 & 34-28-5-4(c) Four (4) points are assessed against a person's driving record. 140 IAC §1-4.5-10

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person <18 years old shall wear protective glasses, goggles or transparent face shield when operating or riding on a motorcycle or motorized bicycle. §§9-19-7-1(2), 9-21-10-9 & 9-21-11-13

Sanctions for Failure to Use:

Class C Infraction: A fine of not more than \$500. §§9-19-7-3, 9-21-11-14 & 34-28-5-4(c)

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None⁵

Sanctions for a Violation:

⁵Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

IOWA
Iowa Code Annotated

Required Use of Safety Belts¹:

Requirements:

When a motor vehicle² is in forward motion, the driver and front seat passengers shall wear safety belts or safety harnesses. §321.445(2) The State supreme court has held that the safety belt law does not violate constitutional privacy or due process of law requirements. *State v. Hartog*, 440 N.W.2d 852 (Iowa 1989)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Simple Misdemeanor but Considered a Scheduled Violation: A fine of \$25. §§321.482, 805.8 & 805.8A(14)(c) Note: In determining a license suspension action, the State is not to consider a violation of this requirement. §321.210(2)(b)

Effect on Civil Liability:

The failure to comply with this requirement shall not be considered evidence of comparative fault. However, such failure may be admitted to mitigate damages.³ §321.445(4)(b) The State supreme court has held that this provision does not violate constitutional requirements concerning equal protection of the laws. *Duntz v. Zeimet*, 478 N.W. 2d 635 (Iowa 1991)

Required Use of Child Safety Restraint Systems⁴:

Requirements:

- I. A child <3 years old, while being transported in a motor vehicle that is "subject to [State] registration," shall be secured in a Federally approved child restraint system. §321.446(1)
- II. A child ≥3 but <6 years old, while being transported in a motor vehicle that is "subject to [State] registration," shall be secured in either a Federally approved child restraint system, a safety belt or a safety harness. §321.446(2)

¹**Exemptions.** The requirement to wear a safety belt or safety harness does not apply in the following circumstances: (1) To persons driving or riding in vehicles that are not required to have safety belts; (2) to drivers or passengers who are frequently alighting or reentering a motor vehicle for employment purposes and where the vehicle does not exceed 25 MPH between stops; (3) to letter carriers of the U.S. Postal Service when performing their duties; (4) to passengers on a bus; (5) to persons, who for medical or physical reasons, cannot wear a safety belt; and (6) except for the driver, front seat occupants of an emergency vehicle when such occupants are being transported in an emergency. §321.445(2)

²A "motor vehicle" does not include a motorcycle or motorized bicycle. §321.445(2)

³The defendant in a civil action (1) must introduce "substantial evidence" that the failure to use a safety belt or safety harness contributed to the plaintiff's injuries and (2), if such is established, the plaintiff's recovery may be reduced by 5%. §321.445(4)(b)(1) & (2)

⁴**Exemptions.** These requirements do not apply to children riding (1) in school buses, (2) on motorcycles, (3) in motor vehicles operated by law enforcement officers acting on official duty; (4) in motor vehicles with a model year of 1965 or older; (5) in authorized emergency vehicles; and, (6) in motor homes except when riding in the passenger seat "situated directly" to the right of the driver. In addition, there is an exemption in cases of children who have a medical, physical or mental condition that prevents or makes inadvisable the securing of a child in a child restraint system, safety belt or safety harness. §321.446(1), (2) & (3)

IOWA

Required Use of Child Safety Restraint Systems:
(continued)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Misdemeanor but Considered a Scheduled Violation: A fine of \$25.
§§321.446(4), 805.8 & 805.8A(14)(c) Note: In determining license
suspension action, the State is not to consider a violation of this
requirement. §321.210(2)(b)

Effect on Civil Liability:

Failure to use a child restraint system, safety belt or safety harness does
not constitute negligence nor is such failure admissible as evidence in a
civil action. §321.446(6)

Required Use of Motorcycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured
Portion of Vehicle⁵:

Requirements:

A passenger shall not ride on any part of any vehicle unless it is
expressly designed either for passenger use or designed for carrying
livestock, merchandise or freight. §321.455

Sanctions for a Violation:

Simple Misdemeanor but Considered a Scheduled Violation: A fine of
\$25. §§321.482, 805.8 & 805.8A(14)(c)

Exemptions:

⁵In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

KANSAS
Kansas Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

When a passenger car² is in operation, each front seat passenger must be secured in a safety belt. §8-2503(a)

Secondary Enforcement. A vehicle shall not be stopped for a violation of this requirement in the absence of another violation. A citation for a violation of this requirement cannot be issued unless a citation is issued for the violation which caused the stop. §8-2503(e)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

A fine of **\$10**. §8-2504(a)(2) A court is not to report a violation of this requirement to the department of revenue. §8-2504(b) Note: This offense appears to be a misdemeanor. §§8-2116(b) & 21-3105

Effect on Civil Liability:

Evidence of failure to use a safety belt shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages. §8-2504(c)

Required Use of Child Safety Restraint Systems:

Requirements:

- I. A driver of a passenger car² shall properly restrain a child <4 years old in a Federally approved child safety restraining system. §8-1344
- II. A driver of a passenger car² shall properly restrain a child >4 but <14 years old in a safety belt.³ §8-1344

Sanctions for Failure to Require
the Use of Child Restraint Systems:

A fine of **\$20**. A violation of this requirement is not a moving violation for licensing sanctions purposes. §8-1345(a) Note: This offense appears to be a misdemeanor. §§8-2116(b) & 21-3105

Effect on Civil Liability:

Evidence of failure to secure a child as required shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages. §8-1345(d) The law has been interpreted to include "misuse" as well as "non-use." *Watkins v. Hartsock*, 783 P.2d 1293 (Kan. 1989) In addition, failure to employ a child passenger restraint system shall not constitute negligence per se. §8-1346

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To passengers who are unable to wear a safety belt for medical reasons; (2) to carriers of U.S. mail when on actual duty delivering and collecting the mail; (3) to persons who are in the process of delivering newspapers; and, (4) to persons who are required to be secured in a child passenger restraint system. §8-2503(b)

²A "passenger car" is defined as a motor vehicle (including vans) designed to carry ≤10 persons. However, such definition does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis with a gross vehicle weight of >12,000 lbs. or a farm truck with a gross weight >16,000 lbs. §§8-1343a & 8-2502 In addition, for safety belt use law only, the term "passenger car" excludes a vehicle constructed with special features for occasional off-road operation. §8-2502 For both safety belt and child protection laws, "passenger car" means those vehicles that comply with Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208). §§8-1344(b) & 8-2503(a) This Federal standard applies to passenger motor vehicles manufactured after January 1, 1973.

³This requirement does not apply if all of the available seating positions with safety belts are occupied. §8-1344(b)

KANSAS

Required Use of Motorcycle Protective Headgear:

Requirements:

No person <18 years old shall operate or ride upon a motorcycle or motorized bicycle unless they are wearing a helmet that satisfies Federal standards. §8-1598(a) This requirement does not apply if the person is riding in an enclosed cab, golf cart or industrial (cargo-type) vehicle having 3 wheels (i.e., a truckster). §8-1598(c)

Sanctions for Failure to Use:

Traffic Infraction: A fine of not more than \$500. Thirty dollars (\$30) if a person pleads guilty or no contest under the uniform fine schedule. §§8-2118(c), 8-2118(c), 21-3105 & 21-4503a(d)

Required Use of Motorcycle Eye Protection Device⁴:

Requirements:

No person shall operate a motorcycle unless they are wearing an eye-protection device (i.e., protective glasses, goggles or transparent shields which are shatter proof and impact resistant). This requirement does not apply if the motorcycle is equipped with a windscreen. §8-1598(b)

Sanctions for Failure to Use:

Traffic Infraction: A fine of not more than \$500. Thirty dollars (\$30) if a person pleads guilty or no contest under the uniform fine schedule. §§8-2118(c), 8-2118(c), 21-3105 & 21-4503a(d)

Required Use of Bicycle Protective Headgear or Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. A person <14 years old is prohibited from riding upon any portion of a vehicle not designed to intended for passenger use. §8-1578a(a)
II. A driver is not to allow a person <14 years old to ride upon any portion of a vehicle not designed to intended for passenger use. §8-1578a(b)
Note: (1) The above requirements only apply when the vehicle is being operated within the corporate limits of a city or on the State highway system. §8-1578a(d) And, (2) Child Safety Restraint Requirements may also apply.

Sanctions for a Violation:

Traffic Infraction: A fine of not more than \$500. Sixty dollars (\$60) if a person pleads guilty or no contest under the uniform fine schedule. §§8-2116(a), 8-2118(c), 21-3105 & 21-4503a(d)

Exemptions:

This requirement does not apply (1) to an employee <14 years old who is engaged in the necessary discharge of an employer's duties within a truck body which is intend for merchandise or cargo or (2) vehicles being operated in parades, caravans or exhibitions. §8-1578a(c)

⁴This requirement does not apply to persons who are riding within an enclosed cab, a golf cart or any industrial (e.g., cargo-type) vehicle which has three wheels and which is commonly known as a truckster. §8-1598(c)

JURISDICTION:
General Reference:

KENTUCKY
Kentucky Revised Statutes

Required Use of Safety Belts¹:

Requirements:

No person shall operate a motor vehicle² (manufactured after 1965) unless the driver and all passengers are wearing seat belts. §189.125(6) **Secondary Enforcement.** A law enforcement officer shall not stop or seize a person nor issue a citation for a violation of this requirement unless the officer has stopped or seized the person for some other violation of the law. §189.125(7)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Violation. A fine of not more than \$25. §§189.990(25) & 532.020(4) Note: The law does not appear to assign points for a violation of this requirement.

Effect on Civil Liability:

Failure of any person to wear a seat belt shall not constitute negligence per se.³ §189.125(5)

Required Use of Child Safety Restraint Systems:

Requirements:

When transporting a child ≤40 inches in height, a driver of a motor vehicles² shall secure such child in a Federally approved child restraint system. §189.125(3) & (4)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Violation. A fine of \$50. §§189.990(24) & 532.020(4) Note: The law does not appear to assign points for a violation of this requirement. **Assessment.** In addition to any fine, an offender must pay a special assessment of \$10 which is deposited into the Traumatic Brain Injury Trust Fund. §189.990(26)

Effect on Civil Liability:

Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure be admissible as evidence in the trial of any civil action. §189.125(5)

Required Use of Motorcycle Protective Headgear:

Requirements:

The following persons are required to wear State approved protective headgear when operating or riding as a passenger on a motorcycle: (1) Operator or passengers who are <21 years old (including passengers <21 years old who are riding in sidecar attachments); (2) any operator

¹**Exemptions.** This requirement does not apply in the following circumstances: (1) To persons who, because of medical or physical conditions, cannot wear a seat belt; and, (2) to letter carriers of the U.S. Postal Service while they are performing their duties. §189.125(6)

²A "motor vehicle" includes a vehicle that is designed to carry ≤10 persons and that was manufactured after 1965. However, the term does not include (1) motorcycles, (2) motor driven cycles or (3) farm trucks having a gross weight ≥1 ton. §189.125(1)

³In a case decided prior to the enactment of the safety belt use law, the State supreme court held that evidence of safety belt nonuse could be introduced for the jury's consideration in awarding damages to plaintiffs involved in automobile accidents. *Wemyss v. Coleman*, 729 S.W.2d 174 (Ky. 1987)

KENTUCKY

Required Use of Motorcycle Protective Headgear: (continued)

Requirements: (continued)

who possesses a motorcycle instruction permit; and, (3) any operator who has possessed a motorcycle operator's permit for <1 year. §189.285(3)

Sanctions for Failure to Use:

Violation. A fine of not less than \$20 nor more than \$100. §§189.990(1) & 532.020(4) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

When operating a motorcycle, a person must use a State approved eye-protection device. §189.285(1)(b)

Sanctions for Failure to Use:

Violation. A fine of not less than \$20 nor more than \$100. §§189.990(1) & 532.020(4) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None⁴

Sanctions for a Violation:

Exemptions:

⁴Even though there is no statutory authority prohibiting this activity, the Safety Belt Use and Child Safety Restraint Systems laws may indirectly establish such a prohibition for all passengers.

JURISDICTION:

General Reference:

LOUISIANA

West's Louisiana Statutes Annotated: Revised Statutes

Required Use of Safety Belts¹:

Requirements:

When a motor vehicle² is in forward motion, the driver and every front seat passenger shall wear a safety belt. §32:295.1(A) & (B)

Enforcement. "Probable cause for violation of the section shall be based solely upon a law enforcement officer's clear and unobstructed view of a person not restrained as required by this section. A law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this section." §32:295.1(F)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: 1st offense-A fine of \$25 including court costs 2nd offense-A fine of \$50 including court costs 3rd and subsequent offense-A fine of \$50 plus court costs §§14:7, 32:295.1(G)(1) and Code of Criminal Procedure, Articles 933 & 934 Note: Notwithstanding any other provision of law, these are the only fines and costs that can be assessed against an offender. §32:295.1(G)(2)

Effect on Civil Liability:

Failure to wear a safety belt shall not be considered evidence of comparative negligence and shall not be admitted to mitigate damages. §32:295.1(E)³

Required Use of Child Safety Restraint Systems⁴:

Requirements:

A State resident who transports a child <13 years old in a motor

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To rural letters carriers of the U.S. Postal Service while performing official duties; (2) to persons operating a farm vehicle with 5 miles of its principal place of use; (3) to persons delivering newspapers; and, (3) to persons who have a physical or mental condition that prevents the use of a safety belt. Note: In order to identify persons who satisfy this last exemption, either a special vehicle tag is issued or an indication concerning such exemption is made on their driver's license. §32:295.1(C) & (D)

²The requirement to use a safety belt applies to passenger cars, to vans, to trucks having gross vehicle weight ≤10,000 lbs. (commonly referred to as pickup trucks) and to autocycles. However, the requirement does not apply to persons, who are operating or riding in such vehicles manufactured prior to January 1, 1981. §32:295.1(A)(1), (A)(2) & (B) Note: Not later than June 30, 2004, every school bus (public or private) must be equipped with occupant restraint systems. §17:164.2 "Autocycle" is defined as "an enclosed motorcycle that is equipped with safety belts, rollbar, windshield wipers, steering wheel, and equipment otherwise required on a motorcycle and which has no more than three wheels in contact with the roadway at any one time." §32:1(1.1)

³This statute was applied in *Keeth v. Dept. of Public Safety & Tran.*, 618 So2d 1154 (La.App. 2 Cir. 1993), and *Miller v. Coastal Corp.*, 635 So.2d 607 (La.App. 3 Cir. 1994).

⁴**Exemptions.** The requirement to use child passenger restraint requirement does not apply in the following circumstances: (1) To children being transported in a motor vehicle that is being used as an ambulance or other emergency vehicle; (2) to adults or applicable children where an emergency exists which would threaten the life of any person; and, (3) to children who, because of medical reasons, cannot be secured in a child passenger safety system or safety belt. §32:295(E)

LOUISIANA

Required Use of Child Safety Restraint Systems: (continued)

Requirements: (continued)

vehicle⁵ shall secure such child in a Federally approved child passenger restraint system. §32:295(A) However, as an alternative, if the child is 3 to 12 years old, they may be secured in a lap or safety belt in the rear seat of the vehicle.⁶ §32:295(C) Note: If the number of children to be secured exceeds the available seat belts, the children shall be seated in the vehicle's rear seat. §32:295(D)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor: 1st offense-A fine of \$50 2nd offense-A fine of \$100 3rd and subsequent offense-A fine of \$100 and all court costs⁷ §§14:7, 32:295(H) and Code of Criminal Procedure, Articles 933 & 934 In addition to any fine, a person, who violates these requirement is subject to having their driving privileges suspended. This suspension lasts until the they present proof to the court they have acquired an appropriate passenger restraint system. §32:295(H)
Note: The failure to use a child safety seat system shall not be considered a moving violation. §32:295(F)

Effect on Civil Liability:

The failure to secure a child passenger safety seat system shall not be considered as comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence. §32:295(F)

Required Use of Motorcycle Protective Headgear⁸:

Requirements⁹:

- I. No person <18 years old shall operate or ride on a motorcycle, motor driven cycle or motorized bicycle unless they are wearing a State approved safety helmet. §32:190(A)(1)
- II. Any person ≥18 years old, who chooses not to wear a helmet, while

⁵The term "motor vehicle" does not include bicycle, farm tractor, motorcycle, motor-driven cycle, truck with a carrying capacity >2,000 lbs., ambulance (or other emergency vehicle), school bus, church bus, private bus, a recreational vehicle which can carry >10 persons and commercial vehicles (truck, van or taxi). §32:295(B) This requirement only applies to motor vehicles that have been equipped with seat belts at the time of manufacture. §32:295(A) Note: Not later than June 30, 2004, every school bus (public or private) must be equipped with occupant restraint systems. §17:164.2

⁶If there are no rear seats, the child must be secured in an appropriate passenger restraint system. §32:295(C)

⁷A person cannot be charged with a subsequent offense until after 24 hours have elapsed between offenses. §32:295(G)

⁸Failure to wear a safety helmet is considered negligence. As a result, a motorcycle operator or passenger, who is injured in a traffic accident while riding on a motorcycle without wearing appropriate headgear, can have any damages for injuries awarded to them reduced because of such a failure. *Landry v. Doe*, 597 So.2d 14 (La.App. 1 Cir. 1992)

⁹I. These requirements do not apply to "off-road vehicles" that are being used for farm related activities and that are being driven on the shoulders of roads except interstate highways. §32:298.1(A) & (B) Note: The law pertaining to "off-road vehicles" does not apply to the roads in Orleans Parish. §32:298.1(D)

II. These requirements "do not apply to persons operating or riding in an auticycle if the vehicle is equipped with a roof which meets or exceeds standards for a safety helmet." §32:190(D)

Required Use of Motorcycle Protective Headgear:
(continued)

Requirements: (continued)

operating or riding the motor vehicles in I, shall be covered by health insurance which has at least \$10,000 in benefits for bodily injuries. §32:190(A)(2)

Note: A person may obtain an exemption from these requirements when participating in an authorized parade or other public exhibition. §32:190(C)

Sanctions for Failure to Use:

Misdemeanor: A fine of **\$50** which includes all court costs. §§14:7, 32:190(F) and Code of Criminal Procedure, Articles 933 & 934

Required Use of Motorcycle Eye Protection Device:

Requirements:

No person shall operate a motorcycle, or motor driven cycle unless they are wearing a State approved eye protection device. This requirement does not apply if the vehicle is equipped with windshield or to persons riding within an enclosed cab. §32:190.1

Sanctions for Failure to Use:

Misdemeanor: 1st offense-An imprisonment for not more than **30 days** and/or a fine of not more than **\$175** Subsequent offense-An imprisonment term of not more than **90 days** and/or a fine of not more than **\$500** §§14:7, 32:57(A) and Code of Criminal Procedure, Articles, 933 & 934

Required Use of Bicycle Protective Headgear¹⁰:

Requirements:

A parent, guardian or other person responsible for a child's safety and welfare shall not "knowingly allow" a child <12 years old to either operate or ride as a passenger on a bicycle unless they are wearing an "approved helmet"¹¹. §32:199(B)(1) Note: This requirement becomes effective on March 1, 2002. §2 of Act 447 (2001).

Sanctions for Failure to Use:

Even though a citation can be issued for a violation of this requirement, as well as for the one noted in Footnote No. 11, the law specifically provides that "[n]o civil penalties or court costs shall be assessed for any violation of this section." §32:199(F)

Note: The law provides that a citation for a violation of this section is not *prima facie* evidence of negligence. However, the comparative negligence laws do apply. §32:199(D)

¹⁰The law also provides that a parent, guardian or other person responsible for a child's safety and welfare shall not "knowingly allow" a child, who weighs <40 lbs. or is < 40 inches in height, to be a passenger on a bicycle unless they are "properly seated in and adequately secured to a restraining seat." §32:199(B)(2) A "restraining seat" is defined to mean "a seat separate from the saddle seat of the operator of the bicycle that is fastened securely to the frame of the bicycle and is adequately equipped to restrain the passenger in such seat and protect such passenger from the moving parts of the bicycle." §32:199(A)(5)

¹¹An "approved helmet" is one that meets or exceeds the minimum standards for bicycle safety helmets established either (1), prior to March 1999, by the American National Standards Institute/the Snell Memorial Foundation or (2), after March 1999, by the Consumer Product Safety Commission. §32:199(A)(1)(a) & (b)

LOUISIANA

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

A person < 12 years old is prohibited from riding (1) in the open bed of a truck with a gross weight of ≤6,000 lbs. (commonly referred to as a pickup truck) or (2) in a utility trailer. §32:284(C)

Sanctions for a Violation:

Misdemeanor: 1st offense-An imprisonment term of not more than 30 days and/or a fine of not more than \$175 Subsequent offense-An imprisonment term of not more than 90 days and/or a fine of not more than 500 §§14:7, 32:57(A) and Code of Criminal Procedure, Articles 933 & 934

Exemptions:

This prohibition does not apply (1) if the pickup truck is traveling ≤15 MPH and is participating in an authorized parade or (2) in emergency situations if the child is accompanied within the truck bed by an adult. §32:284(C)

JURISDICTION:
General Reference:

MAINE
Maine Revised Statutes Annotated (MRSA)

Required Use of Safety Belts¹:

Requirements:

I. A vehicle² operator shall secure themselves in safety belt. Title 29-A MRSA §2081(3-A)

II. Vehicle² passengers ≥ 18 years old are responsible for securing themselves in a safety belt. Title 29-A MRSA §2081(3-A)

Important. See Required Use of Child Safety Restraint Systems below.
Secondary Enforcement. A law enforcement officer can only enforce a violation of Title 29-A MRSA §2081(3-A) after a vehicle operator has been detained for another violation of the law. Title 29-A MRSA §2081(4)(E)

III. **School Bus.** "The operator and passengers in a school bus equipped with safety seat belts shall wear those belts when the vehicle is in motion." Title 29-A MRSA §2304(4)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Traffic Infraction³: For violation of either I or II above, a fine of not less than **\$25** (mandatory) nor more than **\$50**. For a violation of III above, a fine of not less than **\$25** nor more than **\$500**. Title 29-A MRSA §§103(3), 104 & 2081(4)(D) Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

The non use of a seat belt by either the vehicle operator or a passenger is not admissible in evidence in a civil or criminal trial, except in a trial for a violation of this requirement. Title 29-A MRSA §2081(5)

Required Use of Child Safety Restraint Systems¹:

Requirements:

I. A vehicle² operator, when transporting a child < 4 years old, must secure such child in a Federally approved child safety seat. Title 29-A MRSA §2081(1) & (2)

II. A vehicle² operator must have persons ≥ 4 but < 18 years secured in a child safety seat (or a safety belt). Title 29-A MRSA §2081(3)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

I. A violation of I is a Traffic Infraction³: A fine of not less than **\$25**

¹**Exemptions.** I. These requirements do not apply under the following circumstances: (1) To passengers > 1 year old if the number of passengers exceeds the number of available safety belts in the vehicle (**Important.** This exemption **does not** apply if the vehicle operator is < 21 years old.); and, (2) to drivers (regardless of age) or passengers (≥ 19 years old) who for medical conditions cannot use a safety belt. Title 29-A MRSA §2081(4)(A) & (A-1) II. In addition, rural mail carriers of the U.S. Postal Service are not required to use safety belts when performing official duties. And, taxicab operators are not responsible for insuring that fee paying passengers wear a safety belt. Title 29-A MRSA §2081(6)(A) & (B)

²The requirement to use either a safety belt or child safety seat only applies to persons occupying vehicles that are required to be equipped with safety belts under Federal law. Title 29-A MRSA §2081(2), (3) & (3-A)

³I. Within the statutory fine limits, the Chief Judge of the District Court establishes a fine schedule for traffic infractions. Title 4 MRSA §164(12)(B) II. **Surcharges.** Twelve percent (12%) and 2% surcharges must be imposed on any fine for the respective purposes of funding jail/criminal operations and the Community Policing Institute. 4 MRSA §§1057 & 1057-A

MAINE

Required Use of Child Safety Restraint Systems: (continued)

Sanctions for Failure to Require
the Use of Child Restraint Systems: (continued)

(mandatory) nor more than \$500. Title 29-A MRSA §§103(3), 104, 2081(4)(C) & 2604

II. A violation of II is a Traffic Infraction³: A fine of not less than \$25 (mandatory) nor more than \$50. Title 29-A MRSA §§104 & 2081(4)(D)
Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

The failure to secure a child in a child safety seat is not admissible in evidence in a civil or criminal trial, except in a trial for a violation of this requirement. Title 29-A MRSA §2081(5)

Required Use of Motorcycle Protective Headgear⁴:

Requirements:

I. A person operating a motorcycle, motor driven cycle on a learner's permit or within 1 year of successfully completing a driving test must wear appropriate protective headgear. Title 29-A MRSA §2083(1)(C)

II. A person < 15 years old must wear appropriate protective headgear when riding as a passenger on a motorcycle, motor-driven cycle or an attached side car. Title 29-A MRSA §2083(1)(A)

III. A person < 15 years old, who is operating an off-road motorcycle or motor-driven cycle, must wear appropriate protective headgear. Title 29-A MRSA §2083(1)(B)

IV. A passenger of an operator, who is required to wear a protective headgear, must also wear such protection. Title 29-A MRSA §2083(1)(D)

Sanctions for Failure to Use:

Traffic Infraction⁵: A fine of not less than \$25 (mandatory) nor more than \$500.⁵ Title 29-A MRSA §§103(3), 104, 2083(5) & 2604 Note: The law does not appear to assign points for a violation of these requirements.

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

A person < 16 years old, who is operating a bicycle, must wear a

⁴In a case involving an all-terrain vehicle, a Federal appellate court has held that, under Maine law, failure to wear a helmet can be a bar to the recovery of damages if it can be shown that such a failure was responsible for the injuries. *Rodgers v. American Honda Motor Co.*, 46 F.3d 1 (1st Cir. 1995)

⁵This sanction applies to any operator, parent or guardian who allows a passenger < 15 years old to ride a vehicle in violation of these requirements. Title 29-A MRSA §2083(2)

Required Use of Bicycle Protective Headgear:
(continued)

Requirements: (continued)

helmet (protective headgear) which meets or exceeds the U.S. Consumer Product Safety Commission's standards. Title 29-A MRSA §§2322(2) & 2323(1)

Note: Passengers riding on a bicycle taxi, a bicycle designed to carry passengers, are exempt from this requirement. Title 29-A MRSA §§2322(5) & 2327

Sanctions for Failure to Use:

A law enforcement officer may provide bicycle safety information to a person who is in violation of this requirement. In addition, the offender's parents may be informed of this requirement and where to obtain an appropriate helmet.⁶ Title 29-A MRSA §2326

Admissibility of Evidence:

In an accident involving a bicycle, the nonuse of a helmet by the operator or passenger is not admissible as evidence in a civil or criminal trial. Title 29-A MRSA §2328

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle⁷:

Requirements:

When riding in a pick-up truck, a passenger <19 years old must ride in the passenger compartment.⁸ Title 29-A MRSA §2088(1)

Sanctions for a Violation:

Traffic Infraction: A fine of \$25 to \$500³. Title 29-A MRSA §§103, 104 & 2604

Exemptions:

This requirement does not apply in the following situations.
I. Persons, including agricultural workers and trainees, who are either engaged in the necessary discharge of their duties or are being transported between work or training locations.
II. Licensed hunters being transported to or from hunting locations.
III. Persons, who are participating in parades.
IV. A passenger, who is secured by a seat belt in a manufacturer-installed seat, located outside of the passenger compartment.
Title 29-A MRSA §2088(2)

⁶The law is not specific as to whether this is the only sanction that can be imposed for a violation of this requirement. Normally, a violation of a provision of Title 29-A is traffic infraction. The sanction for such a traffic infraction violation is a fine of between \$25 and \$500 and is determined via a fine schedule established by the District Court. Title 29-A MRSA §§103, 104 & 2604 and Title 4 MRSA §164(12)(B)

⁷Under Title 29-A MRSA §2086, "[a] person may not ride or occupy the trunk of a vehicle while the vehicle is in motion on a public way." A person, who violates this requirement, commits a Traffic Infraction and is subject to a fine of \$25 to \$500.³ Title 29-A MRSA §§103, 104 & 2604

⁸Note: The safety belt use law, because it covers all vehicle passengers (regardless of age), may indirectly establish such a prohibition as well.

MAINE

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

MARYLAND

Annotated Code of Maryland Most references are to the Transportation Article (Tran.)

Required Use of Safety Belts¹:

Requirements:

I. A person may not operate a motor vehicle² unless they and any passenger < 16 years old are secured in a seat belt (or child safety seat). Tran. §22-412.3(b)

II. A person ≥ 16 years old may not be a passenger in an "outboard front seat" of a motor vehicle unless they are restrained in a seat belt. An "outboard front seat" means a front seat position that is adjacent to a door of a motor vehicle. Tran. §22-412.3(a)(3) & (c)

Provisional Licenses. Drivers < 18 years old must have a restriction placed on their driving privileges that prohibits them from operating a motor vehicle unless they and all of their passengers are secured in a safety belt safety belt. However, the medical exemptions provided for in Footnote No.1 still apply. Tran. §16-113(d-1) Note: A person, who violates a restriction on their license, commits a misdemeanor and is subject to a fine of not more than \$500. Tran. §§27-101(b) & 27-102

Sanctions for Failure to Use or Require the Use of Safety Belts:

Misdemeanor: A fine of not more than \$25 (including court costs). Tran. §§27-101(a) & 27-106(b) Note: A violation of this requirement is not considered a moving violation for licensing sanction purposes. Tran. §22-412.3(g)

Effect on Civil Liability:

The failure to use a seat belt may not be considered (1) as evidence of negligence, (2) as evidence of contributory, (2) to limit liability of a party or insurer or (4) to diminish recovery for damages arising out of the ownership, maintenance or operation of a motorcycle. Tran. §22-412.3(h)(1)

¹**Exemptions.** The seat requirement does not apply in the following circumstances: (1) To persons who cannot use a seat belt for physical or medical reasons; and, (2) to U.S. Postal Service carriers or contractors while delivering mail to local box routes. Tran. §22-412.3(d), (e) & (f)

²The term "motor vehicle" means either a Class A (passenger) vehicle, a Class E (truck) vehicle, Class F (tractor) vehicle, Class M (multipurpose) vehicle or Class P (passenger bus) which are required to be equipped with seat belts under Federal law. However, the term does not include a Class L (historic) vehicle. Tran. §22-412.3(a)(2) Note: Persons (operators or passengers), who are riding in (or on) the following motor vehicles, are exempt from using a seat belt by reason of the fact that such vehicles are excluded from the list of classifications of motor vehicles covered by the seat belt use law (Tran. §22-412.3(a)(2)): Class B vehicles (for hire vehicles, e.g., taxicabs, except vehicles operated on regular schedules between fixed termini); Class C vehicles (ambulances, mortician flower coach/service wagons, funeral limousine/coach); Class D vehicles (motorcycles); Class G vehicles (trailers or semitrailers); Class H vehicles (school buses/vehicles); Class J vehicles (vanpool vehicles); Class K vehicles (farm vehicles operated only on a farm or within 10 miles of a farm); Class L vehicles (historic vehicles, i.e., vehicles that are ≥ 20 years old); Class N vehicles ("street rod" vehicles, e.g. vehicles that are ≥ 25 years old and that have been modified from the manufactures' original design); and, Class Q vehicles (limousines). Tran. §§11-165 and 13-912 et seq. Note: The Maryland Attorney General has issued an opinion that states that the Maryland safety belt law does not apply to taxicab drivers. Attorney General of Maryland, Opinion No. 00-018 (July 31, 2000), 2000 Md. AG LEXIS 20

MARYLAND

Required Use of Child Safety Restraint Systems³:

Requirements:

A person transporting a child <4 years old (regardless of the child's weight) or ≤40 lbs. (regardless of the child's age) in motor vehicle⁴ shall secure such child in a child safety seat. Tran. §22-412.2(d)(1) & (2). A person transporting a child weighing >40 lbs. and <16 years old in a motor vehicle⁴ shall secure such child in a child safety seat (or a seat belt). Tran. §22-412.2(e)(1) & (2)

Note: A child safety seat or seat belt may not be used to restrain, seat or position more than one individual at a time. Tran. §22-412.2(g)

Provisional Licensees. Drivers <18 years old must have a restriction placed on their driving privileges that prohibits them from operating a motor vehicle unless they comply with the requirements of child safety restraint law. However, the medical exemptions provided for in Footnote No. 3 still apply. Tran. §16-113(d-1) Note: A person, who violates a restriction on their license, commits a misdemeanor and is subject to a fine of not more than \$500. Tran. §§27-101(b) & 27-102

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor: A fine of **\$25**. Tran. §§22-412.2(l)(1) & 27-101(a) Note: A violation of this requirement is not considered a moving violation for licensing sanction purposes. Tran. §22-412.2(j)

Effect on Civil Liability⁵:

A violation of this requirement is not contributory negligence and may not be admitted as evidence in the trial of any civil action. Tran. §22-412.2(i)

Required Use of Motorcycle Protective Headgear:

Requirements:

A person shall not operate or ride on a motorcycle unless they are wearing State approved protective headgear.⁶ Tran. §21-1306(b) Note: This requirement does not apply to persons riding in an enclosed cab. Tran. §21-1306(a)

³**Exemptions.** The requirements to use either a child safety seat or seat belt do not apply in the following circumstances: (1) To children whose weight, physical unfitness or medical condition prevent the practical use of this device; and, (2) to children where the number of children riding in the vehicle exceeds the number of available seat belts in the vehicle. Tran. §22-412.2(f) & (h)

⁴The term "motor vehicle" means either a Class A (passenger)-vehicle, Class E (truck) vehicle with a capacity ≤3/4 ton and a gross vehicle weight ≤7,000 lbs. or a Class M (multipurpose) vehicle. Tran. §22-412.2(c)

⁵A person (or their sponsoring organization) is not civilly liable for an act or omission occurring during the inspection, installation or adjustment of a child safety seat, including giving any advice given regarding any such installation or adjustment, if (1) the person acts in good faith and within the scope of their training, (2) the person does not commit either gross negligence or wanton misconduct, (3) there is no charge or fee for such service and (4) the service is not provided in conjunction with a sale of a child restraint system. The person must be a certified child passenger safety technician via either the National Highway Traffic Safety Administration (NHTSA), American Automobile Association, or other entity designated by NHTSA. Courts and Judicial Proceedings §5-640

⁶The failure to use protective headgear may not be considered (1) as evidence of negligence, (2) as evidence of contributory, (2) to limit liability of a party or insurer or (4) to diminish recovery for damages arising out of the ownership, maintenance or operation of a motorcycle. Tran. §21-1306(e)(1)

Required Use of Motorcycle Protective Headgear:
(continued)

Sanctions for Failure to Use:

Misdemeanor: A fine of not more than \$500. Tran. §27-101(a) & (b)
Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person shall not operate or ride on a motorcycle unless they are wearing State approved eye-protection device or using a windscreen. Tran. §21-1306(c) Note: This requirement does not apply to persons riding in an enclosed cab. Tran. §21-1306(a)

Sanctions for Failure to Use:

Misdemeanor: A fine of not more than \$500. Tran. §27-101(a) & (b)
Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear⁷:

Requirements:

A person < 16 years old may not ride or be a passenger on a bicycle on a highway unless they wear a nationally approved helmet.⁸ Tran. §21-1207.1(a)(ii) & (c)

Sanctions for Failure to Use:

A person, violating this requirement, is issued a warning that informs them of the requirements and provides educational materials about bicycle helmet use. Tran. §21-1207.1(d)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. A person may not operate a Class E vehicle⁹ while a passenger < 16 years old is riding in the unenclosed bed of the vehicle. Tran. §21-1121(c)

⁷A person < 16 years old may not ride a scooter or in-line skates on a highway, bicycle way or sidewalk other property open to the public for either pedestrian or vehicular traffic unless they are wearing a helmet that, as a minimum, satisfies the "protective headgear" standards established for use in bicycling or in-line skating by either the American National Standards Institute, the Snell Memorial Foundation or the American Society of Testing and Measurements. The only sanction for a violation of this requirement is the issuance of a warning with educational materials concerning helmet usage. Tran. §21-1207.2

⁸This requirement does not apply (1) to passengers riding in commercial bicycle rickshaws or (2) to persons riding bicycles on certain segments of the boardwalk in Ocean City, Maryland. Tran. §21-1207.1(a)(2) & (b)

⁹A Class E vehicle is a truck with a capacity of ¾ ton or less and a gross vehicle weight of ≤ 7,000 lbs. Tran. §§13-917 & 21-1121(a)

MARYLAND

Prohibition Against Riding in Unsecured
Portion of Vehicle: (continued)

Requirements: (continued)

II. A person may not occupy the cargo area of a (1) truck, (2) a truck/trailer or (3) a truck tractor/semitrailer or trailer combination where any of these vehicles has a gross vehicle weight of $\geq 10,001$ lbs. and is being operated on a highway. Tran. §21-1107(a) & (b)

Sanctions for a Violation:

Misdemeanor: A fine of not more than **\$500**. Tran. §27-101(a) & (b)
Note: The law does not appear to assign points for a violation of these requirements.

Exemptions:

I. The prohibition in I does not apply if (1) the vehicle is traveling ≤ 25 MPH, (2) an employee is being transported to a work site or (2) an individual is engaged in farming operations. Tran. §21-1121(b)(1)
Note: These exemptions do not eliminate the requirements to use child safety seat or safety belts. Tran. §21-1121(a) & (b)

II. The prohibition in II does not apply to (1) a person delegated to care of livestock, (2) a vehicle controlled or operated by a farmer where such vehicle (a) is being used to transport agricultural products, farm machinery or farm supplies to or from a farm, (b) is not used in operations of a common or contract motor carrier and (c) is used within 150 miles of the farm; (3) a vehicle owned or operated by the U.S. Defense Department and operated either (a) by active duty personnel or (b) by reserve or national guard personnel while on either active duty or on part-time training; or, (4) a vehicle traveling at a speed ≤ 25 MPH. Tran. §21-1107(c)

JURISDICTION:
General Reference:

MASSACHUSETTS
Massachusetts General Laws Annotated

Required Use of Safety Belts¹:

Requirements:

No person shall operate or ride in a private passenger motor vehicle, vanpool vehicle or truck weighing <18,000 lbs. unless they are secured in a safety belt.² Ch. 90, §13A (¶1) Note: For children >5 but ≤12 years old, see Required Use of Child Restraint Systems below.

Secondary Enforcement. A law enforcement officer can only enforce this provision when a vehicle operator has been stopped for a violation of other provisions of law. Ch. 90, §13A (¶2)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Civil Motor Vehicle Infraction: A fine of \$25.³ Ch. 90, §13A (¶2) and Ch. 90C, §1 Note: A violation of this requirement shall not be considered as a conviction of a moving violation of the motor vehicle laws for the purpose of determining surcharges on motor vehicle premiums. Ch. 90, §13A

Effect on Civil Liability:

There are no statutory provisions.⁴

Required Use of Child Safety Restraint Systems⁵:

Requirements:

I. No child <5 years old and weighing ≤40 lbs. shall ride in a motor vehicle unless the child is fastened in a child passenger restraint. Ch. 90, §7AA (¶1)

II. No child ≥5 but <12 years old shall ride in a motor vehicle unless the child is wearing a safety belt. Ch. 90, §7AA (¶2)

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons riding in motor vehicles manufactured before July 1, 1966; (2) to any person who is physically unable to use a safety belt; (3) to rural carriers of the U.S. Postal Service while performing official duties; and, (4) to anyone involved in the operation of taxis, liveries, tractors, trucks with a gross weight ≥18,000 lbs., (5) buses; and, (6) passengers of authorized emergency vehicles. Ch. 90, §13A

²No person shall transport more than 14 school pupils in a motor vehicle unless all of the vehicle's occupants are secured in a safety belt. Ch. 90, §7D In addition, under separate provisions, a person operating a school bus is required to wear a safety belt while transporting children school pupils. Ch. 90, §7B A violation of these requirements is a Civil Motor Vehicle Infraction for which the following sanctions may be imposed: For a 1st offense, a fine of not more than \$35; for a 2nd offense (within 12 months), a fine of not less than \$35 nor more than \$75; and, for a subsequent offense (within 12 months), a fine of not less than \$75 nor more than \$150. Ch.90, §20 & Ch. 90C, §1

³Vehicle operators and passengers ≥16 years old in violation of this requirement are subject to a fine of \$25. However, if the offender is a passenger ≥12 but <16 years old, the vehicle operator is subject to an additional fine of \$25 for each such passenger who was not wearing a safety belt. Ch. 90, §13A (¶2)

⁴The State supreme court has not addressed the issues of whether the nonuse of a safety belt either (1) can be used to mitigate damages or (2) can be considered as contributory negligence. The court refused to consider such issues in one case because no evidence was presented to show that safety belt nonuse resulted in injuries. *Shahzade v. C.J. Mabardy, Inc.*, 586 N.E.2d 3 (Mass. 1992)

⁵**Exemptions.** This requirement does not apply in the following circumstances: (1) To a child who is riding in a school bus; (2) to a child who is riding in a motor vehicle made before July 1, 1966 that is not equipped with safety belts; and, (3) to a child who for physical reason cannot use a child passenger restraint system. Ch. 90, §7AA (¶3)

MASSACHUSETTS

Required Use of Child Safety Restraint Systems: (continued)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Civil Motor Vehicle Infraction: The vehicle operator is subject to a fine of not more than **\$25**. This sanction does not apply to an operator of a taxi cab that is not equipped with a child passenger restraint device. Ch. 90, §7AA (¶3) and Ch. 90C, §1 Note: A violation of these requirements is not considered a moving violation for the purpose of determining surcharges on motor vehicle premiums. Ch. 90, §7AA (¶5)

Effect on Civil Liability:

A violation of this requirement shall not be used as evidence of contributory negligence in any civil action. Ch. 90, §7AA (¶4)

Required Use of Motorcycle Protective Headgear⁶:

Requirements:

Every person operating or riding on a motorcycle or riding in a motorcycle sidecar shall wear State approved protective head gear. Ch. 90, §7

Sanctions for Failure to Use:

Civil Motor Vehicle Infraction: 1st offense-A fine of not more than **\$35** 2nd offense (within 12 months)-A fine of not less than **\$35** nor more than **\$75** Subsequent offense (within 12 months)-A fine of not less than **\$75** nor more than **\$150** Ch. 90, §20 & Ch. 90C, §1

Required Use of Motorcycle Eye Protection Device:

Requirements:

If a motorcycle is not equipped with a windshield or screen, the operator of such vehicle shall wear eye glasses, goggles or a protective face shield. Ch. 90, §7

Sanctions for Failure to Use:

Civil Motor Vehicle Infraction: 1st offense-A fine of not more than **\$35** 2nd offense (within 12 months)-A fine of not less than **\$35** nor more than **\$75** Subsequent offense (within 12 months)-A fine of not less than **\$75** nor more than **\$150** Ch.90, §20 & Ch. 90C, §1

Required Use of Bicycle Protective Headgear:

Requirements:

When operating or riding a bicycle, a person ≤ 12 years old shall wear a nationally approved helmet.⁷ This requirement does not apply if the person is in an enclosed trailer or other device which holds the person in place. Ch. 85, §11B

⁶**Motorized Bicycles.** A person, who is either operating or riding on a motorized bicycle, must wear appropriate protective headgear. A person who is convicted of violating this requirement is subject to the following sanctions: For a 1st offense, a fine of not less than **\$25**; for a 2nd offense, a fine of not less than **\$25** nor more than **\$50** and, for a subsequent offense, a fine of not less than **\$50** nor more than **\$100**. Ch. 90, §1B (¶¶ 2 & 3)

⁷A violation of this requirement shall not be used as evidence of contributory negligence in any civil action. Ch. 85, §11B

Required Use of Bicycle Protective Headgear:
(continued)

Sanctions for Failure to Use:

Civil Disposition: A fine of not more than \$20.⁸ Ch. 40, §21, cl. 16B & Ch. 85, §11C

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle⁹:

Requirements:

No person shall operate a pick-up truck for a distance of > 5 miles and > 5 MPH with persons < 12 years old in the body of such truck. Ch. 90, §13

Sanctions for a Violation:

Civil Motor Vehicle Infraction: 1st offense-A fine of not more than \$35 2nd offense (within 12 months)-A fine of not less than \$35 nor more than \$75 Subsequent offense (within 12 months)-A fine of not less than \$75 nor more than \$150 Ch. 90, §20 & Ch. 90C, §1

Exemptions:

This requirement does not apply (1) to pick-up trucks used in an official parade, (2) where such truck as affixed to it a legal "Owner Repair" or "Farm" license or (3) to a pick-up truck engaged in farming activities. Ch. 90, §13

⁸A bicycle may be impounded for not more than 15 days. Ch. 85, §11B

⁹In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

MASSACHUSETTS

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

MICHIGAN
Michigan Compiled Laws Annotated

Required Use of Safety Belts¹:

Requirements:

I. When a motor vehicle is in operation, each driver and front seat passenger shall wear a safety belt. However, a passenger does not have to comply with this requirement, if all of the available safety belts are in use. §257.710e(3) See Child Safety Restraint Systems below.
II. When operating a motor vehicle, a driver shall secure each child ≥4 but <16 years in a safety belt.² §257.710e(4)
Enforcement. If after December 31, 2005 there has been less than 80% compliance with the above two requirements within the preceding year, a law enforcement officer can only enforce these requirements as a secondary action after a driver has been detained for another violation of the vehicle code. §257.710e(5)
III. A person operating an autocycle on a highway shall wear a seat belt. §257.658(5)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Civil Infraction³: A fine (including court costs) of \$25. §§257.6a, 257.710e(7) & 257.907(2) Note: Points shall not be assessed against an offender's driver record for a violation of either I or II above. §257.710e(13)

Effect on Civil Liability:

Failure to wear a safety belt in violation of the requirements in I or II above may be considered evidence of negligence and may reduce the recovery for damages by not more than 5%.⁴ §257.710e(6)

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons riding (a) in vehicles manufactured before January 1, 1965, (b) a bus, (c) a motorcycle or (d) a moped; (2) to persons who for physical or medical reason cannot use a safety belt; (3) to persons riding in motor vehicles that are not required to have safety belts; (4) to persons riding in commercial or U.S. Postal Service vehicles that make frequent stops to pickup or deliver goods or services; (5) to rural carriers of the U.S. Postal Service while performing official duties; and, (6) to passengers on a school bus. §257.710e(1) Note: The exemption provided for U.S. Postal Service vehicles also includes vehicles owned and used by Postal Service employees while on official business. 1985-1986 Op. Atty. Gen. Mich. 287

²A driver does not have to comply with this requirement if the number of children to be secured exceeds the number of safety belts available. Unsecured children have to be seated in other than the front seat and all front seat passengers must be secured. In the case of pickup trucks where all safety belts are being used and where such vehicles do not have an extended cab or jump seats, unsecured children may be transported in the front seat without a safety belt. §257.710e(4)

³A violation of the requirement to wear a seat belt when operating an autocycle on a highway appears to be a misdemeanor. The sanctions for this misdemeanor are an imprisonment term of not more than 90 days and/or a fine of not more than \$100. §§257.658(5) & 257.901

⁴In situations where an "unbelted" rear seat passenger is injured, evidence of safety belt non-use may be admitted as evidence "to support an affirmative defense" of comparative negligence (410 N.W.2d at 721). *Lowe v. Estate Motors Ltd*, 410 N.W.2d 706 (Mich. 1987) Note: The court explicitly expressed no opinion on the "applicability" of §257.710e with regard to mandatory safety usage for front seat passengers.

MICHIGAN

Required Use of Child Safety Restraint Systems⁵:

Requirements:

When transporting a child <4 years old in a motor vehicle, a driver shall secure such child in a Federally approved child restraint system.⁶ §257.710d(1)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Civil Infraction: A fine of not more than \$10. §§257.6a, 257.710d(4) & 257.907(2) However, an offender is also liable for \$5 in court costs. §257.710d(13) Note: Points shall not be assessed against an offender's driver record. §257.710d(5)

Effect on Civil Liability:

Required Use of Motorcycle Protective Headgear⁶:

Requirements:

I. A person operating or riding on a motorcycle shall wear a State approved crash helmet. §257.658(4)
II. A person <19 years operating a moped on a public highway shall wear a State approved crash helmet. §257.658(4)

Sanctions for Failure to Use:

Misdemeanor: A violation of the requirement to wear a crash helmet appears to be a misdemeanor. The sanctions for this misdemeanor are an imprisonment term of not more than 90 days and/or a fine of not more than \$100. §§257.658(4) & 257.901 Note: The law does not appear to assign points for a violation of these requirements.

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person, who is operating a motorcycle without a windshield and is traveling >35 MPH, must wear either goggles, a transparent face shield or eyeglasses. §257.708a

Sanctions for Failure to Use:

Misdemeanor: A violation of the requirement to use an eye protection device appears to be a misdemeanor. The sanctions for this misdemeanor are an imprisonment term of not more than 90 days and/or a fine of not more than \$100. §§257.708a & 257.901 Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

None

⁵**Exemptions.** These requirements do not apply in the following circumstances: (1) To children being nursed; (2) to children being transported in a bus, school bus, taxicab, moped, motorcycle or a motor vehicle that is not required to be equipped with safety belts; and, (3) to "class" of children who are exempt by the State Secretary of State because of either physical or medical reasons. §257.710d(2), (3) & (6)

⁶Persons either operating or riding in "low-speed vehicles" must wear an approved crash helmet. Generally, a "low-speed vehicle" is an electrically powered motor vehicle that (1) is designed to operate a speed ≤35 MPH, (2) has capacity of ≤4 persons including the driver and (3) weighs ≤2,000 lbs. §257.25b & 257.658b

Required Use of Bicycle Protective Headgear:
(continued)

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

A motor vehicle operator shall not allow a person < 18 years old to ride in the open bed of a pickup truck on any highway, road or street in a city, village or township at a speed > 15 MPH. §257.682b(1)

Sanctions for a Violation:

Civil Infraction-Only a fine is imposed for a Civil Infraction. The actual fine that is to be imposed on an offender is determined by a fine schedule that is established by each district or municipal court. §§257.682b(3), 257.907(7) & 600.8827(5)

Exemptions:

This requirement does not apply to: (1) Motor vehicles operated as part of a an authorized parade; (2) military vehicles; (3) authorized emergency vehicles; (4) motor vehicles controlled or operated by an employer or an employee of a farm operation, construction business or similar enterprise during the course of employment; and, (5) motor vehicles used to transport search and rescue teams to and from an emergency site. §257.682b(2)

MICHIGAN

Required Use of Safety Belts¹:

Requirements:

I. The driver of a passenger or commercial motor vehicle² shall wear a seat belt.³ §169.686, subd. 1(1)
II. A passenger riding the front seat of a passenger or commercial motor vehicle² shall wear a seat belt. §169.686, subd. 1(2)
III. A passenger, who is >3 but <11 years old, shall be secured in a seat belt while riding in any seating position. §169.686, subd. 1(3)
Secondary Enforcement. A law enforcement officer may not issue a citation for a violation of these requirements unless they have lawfully stopped or detained the vehicle operator for a moving violation except for a equipment violation. §169.686, subd. 1
Note: Not reported are certain required uses of seat belts which are needed to secure wheelchairs being transported on public transportation vehicles. §299A.13

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Petty Misdemeanor³: A fine of \$25.⁴ §§169.89, subd. 1 & 169.686, subd. 1 A person may also be required to attend a driver improvement clinic. §169.89, subd. 5 Note: A violation of this requirement shall not be recorded on an offender's driver record. §169.686, subd. 1.

Effect on Civil Liability:

Evidence of either the use or the failure to use a seat belt shall not be admissible in evidence in any litigation involving personal injuries or property damage resulting from the use or operation of any motor vehicle. §169.685, subd. 4(a) This provision was held constitutional on both "equal protection" and "due process of law" grounds. *Cressy v. Grassmann*, 536 N.W.2d 39 (Minn.App. 1995) (review denied by the Minn. Sup. Ct., 1995 Minn. LEXIS 850) Note: The law neither prevents a person from bring a cause of action for damages arising out of a seat belt that was defectively designed, manufactured or installed nor prohibits the introduction of evidence pertaining to the use of a safety belts in such cases. §169.685, subd. 4(b)

¹**Exemptions.** The requirement to use a seat belt does not apply in the following circumstances: (1) To drivers who are operating a passenger vehicle in reverse; (2) to persons who are riding in a vehicle where all of the available seat belt positions have been occupied; (3) to persons who for physical or medical reasons cannot use a seat belt; (4) to persons who are engaged in work that requires them to alight from and reenter a passenger vehicle at frequent intervals and where the vehicle is does not exceed 25 MPH; (5) to rural mail carriers of the U.S. Postal Service while performing official duties; (6) to persons driving or riding in a passenger motor vehicle manufactured before January 1, 1965; and, (6) to persons riding in pickup trucks while engaged in normal farming work or activity. §169.686, subd. 2

²Under State law the following types of motor vehicles do not have to be equipped with safety belts: (1) Bus, (2) school bus, (3) motorcycle, (4) motorized bicycle, (5) farm tractor, (6) road tractor and (7) truck. §169.685, subd. 1

³Under separate provisions of law, school bus and Head Start bus operators must use a safety belt. §169.447, subd. 2 Persons, violating this requirement, commit a Petty Misdemeanor and are subject to a fine sanction of not more than \$200. However, if they commit a third offense within 12 months, they commit a Misdemeanor and are subject to an incarceration term of not more than 90 days and/or a fine of not more than \$700. §§169.89, subds. 1 & 2 and 609.03(3) Note: These are the general penalty provisions of Chapter 169.

⁴An individual ≥15 years old who violates I or II is personally responsible for their actions. However, the driver is responsible if the offense was committed either by their child <15 years old or by any child <11 years old. §169.686, subd. 1

MINNESOTA

Required Use of Child Safety Restraint Systems⁵:

Requirements:

A driver, when transporting a child <4 years old in a motor vehicle that is equipped with factory-installed seat belts, shall secure such child in a Federally approved child passenger restraint system. §169.685, subd. 5(a) & (b)

Enforcement. The State supreme court has held that the child safety restraint law, §169.685, is a primary enforcement statute. *State v. Lucas*, 589 N.W.2d 91 (Minn. 1999)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Petty Misdemeanor: A fine of not more than \$50. §169.685, subd. 5(b)
A person may also be required to attend a driver improvement clinic. §169.89, subd. 5

Effect on Civil Liability:

Evidence of either the use of or the failure to use a child passenger restraint system shall not be admissible in evidence in any litigation involving personal injuries or property damage resulting from the use or operation of any motor vehicle. §169.685, subd. 4(a) This prohibition also applies to wrongful death cases. The court interpreted the term "physical injuries" to include death. *Sweldar v. Lahti*, 473 N.W.2d 77 (Minn.App. 1991) This provision was held not to violate a person's constitutional rights to equal protection and due process of law. *Gressy v. Grassmann*, 536 N.W.2d 39 (Minn.App. 1995) Note: The law neither prevents a person from bring a cause of action for damages arising out of a child passenger restraint system that was defectively designed, manufactured or installed nor prohibits the introduction of evidence pertaining to the use of a child passenger restraint systems in such cases. §169.685, subd. 4(b)

Required Use of Motorcycle Protective Headgear⁶:

Requirements:

I. No person <18 years old shall operate or ride on a motorcycle⁷ or

⁵Exemptions. The requirement to use a child passenger restraint system does not apply in the following circumstances: (1) To children who are being transported for official purposes in an emergency medical vehicle where the use of such a system is unreasonable or unavailable; (2) to children who are being transported in police vehicles when a such a system is not available but such children must be restrained in a seat belt; (3) to children who cannot use such a system for physical or medical reasons; and, (4) to children riding in a motor vehicle for hire (e.g, taxi, airport limousine and bus) but this exemption does not apply to rented, leased or borrowed motor vehicles. §169.685, subd. 6

⁶In an action to recover damages for injuries from a traffic accident, the failure to use protective headgear shall be admissible only with respect to the question of head injuries. Damages for head injuries of any person who was not wearing protective headgear shall be reduced to the extent that those injuries could have been avoided by wearing protective headgear. The admissibility of such evidence applies to operators or passengers regardless of whether they are required by law to wear protective headgear. §169.974, subd. 6 (This provision was held to be constitutional on "equal protection" grounds. *Leonard v. Parrish*, 420 N.W.2d 629 (Minn.App. 1988)) Note: Because of §169.223, subd. 1, such evidence may also be allowed in the case of injured operators or riders of motorized bicycles.

⁷A person <18 years old shall wear protective headgear when operating off-highway motorcycles. §84.793, subd. 2 A person, who violates this requirement commits a misdemeanor. §84.796(a) The sanctions for a misdemeanor are an imprisonment term of not more than 90 days and/or a fine of not more than \$700. §609.03(3)

Required Use of Motorcycle Protective Headgear:
(continued)

Requirements: (continued)

motorized bicycle without wearing State approved protective headgear.⁸
§§169.223, subd. 1 & 169.974, subd. 4(a)
II. Any person who is operating a motorcycle on a "two-wheeled instruction permit" must wear State approved protective headgear.
§169.974, subd. 2

Sanctions for Failure to Use:

Petty Misdemeanor: A fine of not more than \$200. §169.89, subds. 1 & 2 A person may also be required to attend a driver improvement clinic.
§169.89, subd. 5

Required Use of Motorcycle Eye Protection Device:

Requirements:

No person shall operate a motorcycle⁹ or motorized bicycle without wearing an eye-protection device.¹⁰ §§169.223, subd. 1 & 169.974, subd. 4(a)

Sanctions for Failure to Use:

Petty Misdemeanor: A fine of not more than \$200. §169.89, subds. 1 & 2 A person may also be required to attend a driver improvement clinic.
§169.89, subd. 5

Required Use of Bicycle Protective Headgear:

Requirements:

The operator of an electric-assisted bicycle must wear nationally approved headgear. §169.223, subd. 1(5)

Sanctions for Failure to Use:

Petty Misdemeanor: A fine of not more than \$200. §169.89, subds. 1 & 2 A person may also be required to attend a driver improvement clinic.
§169.89, subd. 5

Required Use of Bicycle Eye Protection Device:

Requirements:

None⁹

Sanctions for Failure to Use:

⁸This requirement does not apply if the operator or rider is participating in an authorized parade or to persons riding in an enclosed cab.
§169.974, subd. 4(b)

⁹Any person operating an off-highway motorcycle must wear an eye-protection device. §84.793, subd. 4 A person, who violates this requirement commits a misdemeanor. §84.796(a) The sanctions for a misdemeanor are an imprisonment term of not more than 90 days and/or a fine of not more than \$700. §609.03(3)

¹⁰This requirement does not apply to operators of electric-assisted bicycles. §169.223, subd. 1(6)

MINNESOTA

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements:

None¹¹

Sanctions for a Violation:

Exemptions:

¹¹Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

MISSISSIPPI
Mississippi Code Annotated

Required Use of Safety Belts¹:

Requirements:

When a passenger motor vehicle² is in forward motion, (1) the driver, (2) every front seat passenger and (3) every child, regardless of seating position, ≥ 4 but < 8 years old shall wear a seat belt. §63-2-1(1)

Secondary Enforcement. No fine shall be imposed against an operator for a violation of this requirement by themselves or a front seat passenger > 8 yrs old, unless the driver has been charged with and convicted of some other of violation of the law not related to the mandatory use of safety seat belts. **Exception:** However, the requirement that another offense be charged does not apply if the safety belt law violation involved a child ≥ 4 but < 8 years old. §63-2-7(1)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: A fine of **\$25**. No additional assessments provided for under law shall be imposed against a violator Note: A violation of this requirement is not to be entered on an offender's driving record. §§63-2-3 & 63-2-7

Effect on Civil Liability:

Failure to use a seat belt shall not be considered contributory or comparative negligence. §63-2-3

Required Use of Child Safety Restraint Systems¹:

Requirements:

A driver, when transporting a child < 4 years old in a private passenger motor vehicle², shall secure such child in a Federally approved child passenger restraint device or system. §63-7-301(1) For children ≥ 4 but < 8 years old, see Required Use of Safety Belts above.

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Misdemeanor: A fine of not more than **\$25**. §§63-7-309 & 63-9-11(1) In addition, the offender is required to pay a State assessment **\$23**. §99-19-73(1)

Effect on Civil Liability:

Failure to comply with this requirement shall not be considered contributory or comparative negligence. §63-7-301(3)

Required Use of Motorcycle Protective Headgear:

Requirements:

No person shall operate or ride on a motorcycle or motor scooter unless they are wearing a crash helmet that has been approved by the

¹**Exemptions.** The requirement either to wear a seat belt or to use a child passenger restraint device does not apply in the following circumstances: (1) To persons operating farm vehicles, implements of husbandry or farm tractors; (2) to persons who because of medical reasons cannot use a "seat belt system;" (3) to "passenger cars" that are operated by either rural letter carriers of the U.S. Postal Service or utility meter readers while on official duty; and, (4) buses. §§63-2-1(3) & 63-7-301(2)

²A "passenger motor vehicle" means a motor vehicle that is designed to carry ≤ 15 or fewer persons including the driver but does not include motorcycles, mopeds, all-terrain vehicles or trailers. §§63-2-1(2) & 63-7-301(2) The law further provides that the requirements to either wear safety belts or to use child restraint systems only applies to vehicles "manufactured pursuant to Federal Motor Vehicle Safety Standard 208" (49 CFR 571.208) Note: This Federal standard applies to passenger motor vehicles manufactured after January 1, 1973.

MISSISSIPPI

Required Use of Motorcycle Protective Headgear: (continued)

Requirements: (continued)

American Association of Motor Vehicle Administrators. §63-7-64

Sanctions for Failure to Use:

Misdemeanor: 1st offense-Imprisonment for not more than **10 days** and/or a fine of not more than **\$100** 2nd offense (within 1 year)-Imprisonment for not more than **20 days** and/or a fine of not more than **\$200** 3rd and subsequent offense (within 1 year)-Imprisonment for not more than **6 months days** and/or a fine of not more than **\$500** §§63-7-64 & 63-9-11 All offenders are subject to a State assessment of \$23. §99-19-73(1)

Required Use of Motorcycle Eye Protection Device:

Requirements:

Note: This requirement is indirectly covered by the requirement to use a crash helmet.

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None³

Sanctions for a Violation:

Exemptions:

³Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for children <8 years old via the provisions of the Safety Belt Use and Child Safety Restraint Systems laws.

JURISDICTION:
General Reference:

MISSOURI
Vernon's Annotated Missouri Statutes

Required Use of Safety Belts¹:

Requirements:

I. When a passenger car² is in operation, (1) every driver, (2) front seat passenger and (3) person <18 years old while operating or riding in a truck³ shall wear a safety belt. §307.178.2

Secondary Enforcement. No person shall be stopped, inspected or detained solely to determine compliance with this requirement. §307.178.2

II. When a passenger car² is in operation, every driver shall secure a child ≥4 but <16 years old in a safety belt. §307.178.3

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Infraction: A fine of not more than **\$10**. No court costs can be imposed and no points can be entered on an offender's driving record. §307.178.5

Effect on Civil Liability:

Failure to wear a safety belt is not to be considered as evidence of comparative negligence. However, such evidence may be admitted for the purpose of mitigation of damages if the party seeking to introduce such evidence presents expert evidence proving that such a failure contributed to the plaintiff's injuries. If such is proven, damages may be reduced by not more than 1%. §307.178.4

Required Use of Child Safety Restraint Systems⁴:

Requirements:

Every person, who transports a child <4 years old in a motor vehicle⁵, shall secure such child in a child passenger restraint system approved by the State. §210.104.1

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Infraction: Not more than **\$25** plus court costs. §210.104.2 Note: The law does not appear to assign points for a violation of this requirement.

¹Exemptions. The requirement to use a safety belt does not apply in the following circumstances: (1) To persons employed by the U.S. Postal Service while on official duties; (2) to persons riding in passenger cars manufactured before January 1, 1968; (3) to persons who for medical reasons cannot use a safety belt; and, (4) to persons "while operating or riding a motor vehicle being used in agricultural work-related activities." §307.178.2 In addition, a vehicle operator or passenger is not in violation of the safety belt use requirement if they are unable to use a safety belt due to the fact that all of the available safety belts are already in use. §307.178.7

²A "passenger car" means every motor vehicle designed for carrying ≤10 persons but does not include motorcycles, motorized bicycles, motor tricycles or trucks with a gross weight of ≥12,000 lbs. §307.178.1

³A "truck" is defined as "a motor vehicle designed, used, or maintained for the transportation of property." §301.010(58)

⁴Exemptions. This requirement does not apply to a public carrier for hire. §210.104.3

⁵Note: The term "motor vehicle" is not defined in Chapter 210 of Title XII.

MISSOURI

Required Use of Child Safety Restraint Systems: (continued)

Effect on Civil Liability:

The failure to comply with this requirement shall not be the basis for a claim of civil liability or negligence or contributory negligence of any person for damages. In addition, such failure shall not be admissible as evidence in the trial of any civil action. §210.106

Required Use of Motorcycle Protective Headgear:

Requirements:

Every rider or passenger of a motorcycle or motortricycle shall wear State approved protective headgear. §302.020.2

Sanctions for Failure to Use:

Infraction: A fine of not more than **\$25**. No court costs can be imposed and no points can be entered on an offender's driving record. §302.020.3

Required Use of Motorcycle Eye Protection Device:

Requirements:

Note: This requirement is indirectly covered by the above requirement to use protective headgear.

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

- I. No person shall operate a truck³ with a gross weight of <12,000 lbs. when any person <18 year old is riding in the truck's unenclosed bed. §304.665.1
- II. No person <18 years old shall ride in the unenclosed bed of a truck³ with a gross weight of <12,000 lbs. when such vehicle is in operation. §304.665.1

Sanctions for a Violation:

Class C Misdemeanor: A truck operator, who violates the requirement

Prohibition Against Riding in Unsecured
Portion of Vehicle: (continued)

Sanctions for a Violation: (continued)

in I above, is guilty of a Class C Misdemeanor.⁶ §304.665.1 The sanctions for this misdemeanor are an imprisonment sentence of not more than **15 days** and/or a fine of not more than **\$300**. §§558.011.1(7) & 560.016.1(3)

Exemptions:

The above requirements do not apply in the following circumstances: (1) A person must ride in an unenclosed area in order to discharge employment duties; (2) a person must ride in an unenclosed area in order to engaged in agricultural activities; (3) a person is riding in an unenclosed area while participating in a lawfully authorized parade, caravan or exhibition; (4) a person may ride in the unenclosed area provided the vehicle has a device that prevents such passenger from being thrown, falling or jumping out of the vehicle; (5) a person is riding the unenclosed area as part of a "special event" associated with a social activity of limited duration and there is a lack of available seating in the enclosed area of the vehicle; (6) a person is riding in the unenclosed area for the purpose of providing assistance to or ensuring the safety of other persons that are engaged in a recreational activity; or (7) a person is riding in the unenclosed area of a family owned truck which is the only vehicle owned by the family and there is insufficient room in the passenger compartment to accommodate all of the passengers. §304.665.2

⁶Section 304.665 does not provide for a specific sanction for a violation of its provisions by a person < 18 years old who is riding in the unenclosed bed of a truck. As a result, the generally penalty provision Chapter 304 may apply. The general penalty provision provides for an imprisonment term of not more than **1 year** and/or a fine of not less than **\$5** but not more than **\$500**. §304.570

MISSOURI

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

MONTANA
Montana Code Annotated

Required Use of Safety Belts¹:

Requirements:

A person cannot operate a motor vehicle unless they and every "occupant of a designated seating position is wearing a properly adjusted and fastened seatbelt."² §61-13-103(1)

Secondary Enforcement. A driver may not be stopped for a violation of this requirement except upon reasonable cause to believe that such driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law. §61-13-103(4)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

A mandatory fine of \$20.³ A violation of this requirement is not considered a moving violation of the purposes of suspending a driver's license. §61-13-104(1) & (2) In addition, no insurance company shall increase a person's premium based on a violation of this requirement. §61-13-104(2) Note: The law provides that this offense is not to be considered a misdemeanor but does not define or classify it as some other offense. §61-13-104(1)

Effect on Civil Liability:

Failure to comply with this requirement shall not be admissible as evidence in any civil action for personal injury or property damage. Furthermore, such failure does not constitute negligence. §61-13-106

Required Use of Child Safety Restraint Systems⁴:

Requirements:

I. A child <2 years old, who is a passenger in a motor vehicle⁵, must be secured in a Federally approved child restraint system. §61-9-420(1) & (3)

II. A child between 2 and 4 years old and weighing <40 lbs., who is a passenger in a motor vehicle, must be secured in either a Federally approved child restraint system or a safety belt. §61-9-420(2) & (3)

¹**Exemptions.** The requirement to use a seat belt does not apply in the following circumstances: (1) To persons who for medical reasons cannot use a seat belt; (2) to persons who cannot use a seat belt because all of the available seat belts are in use; (3) to operators of motorcycles or motor-driven cycles; (4) to occupants of specially licensed motor vehicles (e.g., road construction equipment, maintenance machinery, ditch-digging apparatus, well-boring apparatus and motor vehicles or trailers designed to apply fertilizer); and, (5) to persons who make frequent stops as part of their official job duties and who have obtained a State exemption. §§61-1-104 & 61-13-103(2)

²Under the safety belt law, the term "motor vehicle" is defined as a vehicle propelled by its own power and designed primarily to transport persons or property upon the highway (§61-13-102(3)) and the term "seatbelt" means an occupant restraint system that complies with Federal law (§61-13-102(5)). However, under Federal law such a system is only applicable on certain types motor vehicles manufactured after January 1, 1973.

³Unless special circumstances exist, it is unreasonable, under the State's constitution, to arrest and detain a person for a "non-jailable offense." Mont. Const. Article II, §§10 & 11 and *State v. Bauer*, 36 P.3d 892 (Mont. 2001) Note: Under the U.S. Constitution, a person may be arrested without a warrant for a fine only minor criminal offense. *Atwater v. City of Lago Vista*, 121 S.Ct. 1536, 149 L.Ed.2d 549, ___ U.S. ___ (2001)

⁴**Exemptions.** These requirements do not apply children who for physical or medical reasons cannot use a child restraint system or seat belt. §61-9-420(5)

⁵The term "motor vehicle" does not include motorbus, school bus, taxicab, moped, quadricycle, motorcycle, any vehicle that does not have to have a safety belt under Federal law or a vehicle designed for 2 persons but where there are two additional persons < 4 years old in the vehicle. §61-9-421

MONTANA

Required Use of Child Safety Restraint Systems: (continued)

Requirements: (continued)

Note: A person is not required to have more than 3 child safety restraints systems in a vehicle. §61-9-420(4)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Misdemeanor: A fine of not more than \$100.³ §§45-2-101(41), 61-9-423 & 61-9-511(1) Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

Even though evidence of a failure to comply with this requirement is admissible in any civil action for personal injury or damages, such failure alone does not constitute negligence. §61-9-422

Required Use of Motorcycle Protective Headgear:

Requirements:

I. A person <18 years old, who operates or rides on a motorcycle or quadricycle⁶, shall wear State approved protective headgear. §61-9-417(1)
II. A person may not operate a motorcycle unless all passenger <18 years old are wearing protective headgear. §61-9-417(2)

Sanctions for Failure to Use:

Misdemeanor: A fine of \$5.³ §§45-2-101(41), 61-9-511(1) & 61-9-518(1) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Required Use of Bicycle Protective Headgear:

Requirements:

None

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None⁷

⁶A "quadricycle" is defined as "a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle upon which the operator sits and a motor capable of producing not more than 50 horsepower." §61-1-133

⁷Even though there is no statutory prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

NEBRASKA
Revised Statutes of Nebraska

Required Use of Safety Belts¹:

Requirements:

A person shall not operate a motor vehicle¹ unless they and each front seat passenger are wearing an occupant protection system (safety belt).² §§60-6,265 & 60-6,270(1)

Secondary Enforcement. Enforcement of this requirement by law enforcement officers shall be accomplished only as a secondary action when a driver has been cited or charged with a violation of some other offense. §60-6,271

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Traffic Infraction: A fine of \$25.³ However, no court costs can be assessed and no points can be assessed against a person's driving record. §§60-4,182(13), 60-6,272 & 60-688

Effect on Civil Liability:

Evidence of a violation of the requirement shall not be admissible in regard to the issue of liability or proximate cause but may be admissible as evidence concerning mitigation of damages. However, such evidence shall not reduce recovery for damages by more than 5%. §60-6,273 & *Vredeveld v. Clark*, 504 N.W.2d 292 (Neb. 1993) (decided under §39-6,103.08 which was transferred to §60-6,273)

Required Use of Child Safety Restraint Systems⁴:

Requirements:

I. Drivers, who are transporting a child <5 years old and weighing <40 lbs. in any motor vehicle, must secure such child in a Federally approved child passenger restraint system.⁵ §60-6,267(1)(a)

II. Drivers, who are transporting a child <16 years old and weighing ≥40 lbs. in any motor vehicle, must secure such child in an occupant protection system (safety belt).⁵ §§60-6,265 & 60-6,267(1)(b) Enforcement of this requirement by law enforcement officers shall be accomplished only as a **secondary action** when a driver has been cited or charged with a violation of some other offense. §60-6,268(3)

¹**Exemptions.** I. This requirement does not apply to vehicles manufactured before the 1973 model year, farm tractors, implements of husbandry, motorcycles, motor-driven cycles, mopeds or buses. §60-6,266 & 60-6,270(3) II. This requirement does not apply in the following circumstances: (1) To persons who because of medical reasons cannot wear an occupant protection system; (2) to rural carriers of the U.S. Postal Service while performing official duties; and, (3) to members of an ambulance or rescue service unit while involved in patient care. §60-6,270(2)

²Under separate provisions of the law, a school bus operator is required to wear a safety belt if such bus is equipped with seat belts. §79-609(3) Note: This section does not provide a penalty for its violation.

³Regardless of the number of violations occurring at one time, a driver can only be cited for one offense. §60-6,272

⁴**Exemptions.** I. These requirements do not apply to persons who are operating taxicabs, mopeds, motorcycles or motor vehicles manufactured as a 1963 or earlier model year. §60-6,267(1) II. These requirements do not apply in the following circumstances: (1) To children who cannot use a child passenger restraint system for physical or medical reasons; and, (2) to children who are being transported in emergency vehicles when the vehicle operator is performing official duties. §60-6,267(2) & (3)

⁵This requirement only applies to motor vehicles that are required to have "occupant protection systems." §60-6,267(1)

NEBRASKA

Required Use of Child Safety Restraint Systems: (continued)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Infraction: 1st offense-A fine of \$25 Subsequent offense-\$100 to \$500⁶
§§29-431, 29-436 & 60-6,268(1) Note: The law is not clear but it is
possible that a person could have 1 point assessed against their driving
record. §60-4,182(13)

Effect on Civil Liability:

A violation of this requirement is shall not constitute *prima facie*
evidence of negligence nor shall such a violation constitute a defense to
any claim for personal injuries to a child or recovery of medical
expenses for injuries. In addition, such a violation shall not constitute a
defense for another person to any claim for personal injuries to a child
or recovery of medical expenses for injuries. §60-6,269

Required Use of Motorcycle Protective Headgear:

Requirements:

A person shall not operate or ride on a motorcycle or moped unless they
are wearing a Federally approved protective helmet. §§60-6,279, 60-
6,280 & 60-6,281

Sanctions for Failure to Use:

Traffic Infraction: A fine of \$50. §§60-688 & 60-6,282 No points are
assessed against a person's driving record. §60-4,182(13)

Required Use of Motorcycle Eye Protection Device:

Requirements:

Note: This requirement is indirectly satisfied via the requirement to use
a protective helmet.

Required Use of Bicycle Protective Headgear:

Requirements:

None

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None⁷

⁶The law appears to provide that both first and subsequent offenses are "infractions" (not "traffic infractions"). The sanctions for "infractions" are as follows: For a 1st offense, a fine of not more than \$100 (not applicable in light of the specific \$25 fine sanction for a 1st offense under §60-6,268(1)(¶1)); for a 2nd offense (within 2 years), a fine of \$100 to \$300; and, for a subsequent offense (within 2 years), a fine of \$200 to \$500. §§29-436 and 60-6,268(1)(¶1) & (¶3)

⁷Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

NEVADA
Nevada Revised Statutes and Nevada Administrative Code (NAC)

Required Use of Safety Belts¹:

Requirements:

A person driving and any front or back seat passenger >5 years old riding in a motor vehicle (with an unladen weight of <6,000 lbs.) shall wear a safety belt. §484.641(2)

Secondary Enforcement. A citation may be issued for a violation of this requirement only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. §484.641(3)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: A fine of not more than \$25 or by a sentence to perform a number of hours of community service.² §§484.251(1) & 484.641(3)
Note: A violation of this requirement is not a moving violation for license sanctioning purposes. §484.641(4)(A)

Effect on Civil Liability:

A violation of this requirement may not be considered as negligence or as causation in any civil action or as negligence or reckless driving. §484.641(4)(b) In addition, such a violation may not be considered as misuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale or use of a product. §484.641(4)(c)

Required Use of Child Safety Restraint Systems³:

Requirements:

A person transporting a child, who is <5 years old and who weighs <40 lbs. in a motor vehicle, shall secure such child in a Federally approved child restraint system. §484.474(1)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Misdemeanor: A fine of not less than \$35 nor more than \$100. §§484.251(1) & 484.474(2) Note: A violation of this requirement is not a moving violation for license sanctioning purposes. §484.474(3)

Effect on Civil Liability:

A violation of this requirement may not be considered (1) as negligence in any civil action or (2) as negligence or reckless driving. §484.474(4)

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons who are unable to wear a safety belt for physical or medical reasons; (2) to persons driving or riding in motor vehicles that are not required to be equipped with safety belts under Federal law; (3) to employees of the U.S. Postal Service while delivering mail in the rural areas of the State; (4) to persons who frequently leave a vehicle for the purpose of delivering property and where the vehicle does not exceed 15 MPH; and, (5) to passengers riding in a public transportation vehicle including a taxi, school bus or emergency vehicle. §484.641(6) In addition, the State can exempt persons from this requirement who ride in motor vehicles or seating posting that the State has determined would make compliance impractical. §484.641(5)

²If the violator is child ≥5 but <18 years old, the driver is cited for the offense. However, if both the driver and such child are in violation of this requirement, only one citation may be issued. §484.641(3)

³**Exemptions.** The requirement to use a child restraint system does not apply in the following circumstances: (1) To children being transported in a means of public transportation including a taxi, school bus or emergency vehicle; and, (2) to children who have either a physical or medical difficulty that would make use of such a system either impractical or dangerous. §484.474(5)(a) & (b)

NEVADA

Required Use of Motorcycle Protective Headgear:

Requirements:

A person operating or riding on a motorcycle shall wear State approved protective headgear. This requirement does not apply to persons operating or riding on trimobiles or mopeds §486.231(1) & (2)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **6 months** and/or a fine of not more than **\$1,000.**⁴ §§193.150(1) & 486.381 Two (2) points are assessed against a person's driving record. NAC 483.510

Required Use of Motorcycle Eye Protection Device⁵:

Requirements:

A person operating or riding on a motorcycle or a trimobile shall wear State approved glasses, goggles or a face shield. This requirement does not apply to persons operating or riding on mopeds. §486.231(1) & (2)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **6 months** and/or a fine of not more than **\$1,000.**⁴ §§193.150(1) & 486.381 Two (2) points are assessed against a person's driving record. NAC 483.510

Required Use of Bicycle Protective Headgear or Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

In counties with a population $\geq 100,00$, a driver cannot operate a motor vehicle with person < 18 years old riding in an area designed or intended for carrying goods or other cargo or that is not designed or intended for passengers (includes a flatbed truck or bed of a pickup truck). §484.473(1) & (2)(a)

Sanctions for a Violation:

A fine of at least **\$35** but not more than **\$100**. This offense is not considered a moving violation. §484.473(3) & (5)(a) Note: A violation is not considered negligence in a civil action or a negligent or reckless driving. §484.473(5)(b)

Exemptions:

This requirement does not apply if the vehicle is (1) not being operated on a freeway or a road that has 2 or more lanes of traffic in one direction, (2) being used in the course of farming or ranching or (3) being driven in an authorized parade. §484.473(2)(b)

⁴As an alternative to either an imprisonment term or a fine, an offender may be sentenced to perform a fixed period of work for the benefit of the community. §193.150(2)

⁵This requirement does not apply to persons operating or riding (1) on either a motorcycle or a trimobile if such vehicle is equipped with a transparent windscreen; (2) in a motorcycle being driven in an authorized parade; or, (3) in a three-wheeled motorcycle where the driver or passengers are within an enclosed cab. §486.231(3), (4) & (5)

JURISDICTION:
General Reference:

NEW HAMPSHIRE
New Hampshire Revised Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

I. When operating a motor vehicle, a person <18 years old must wear a safety belt. §265:107-a, I-a
II. No person shall transport a person ≥4 but <18 years old in a motor vehicle unless such person is secured in a seat or safety belt. §265:107-a, I

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Violation: 1st offense-A fine of \$25 Subsequent offense-A fine of \$50 §265:107-a, III Note: The law does not appear to assign points for a violation of these requirements.²

Effect on Civil Liability:

A violation of these requirements shall not be used as evidence of contributory negligence in any civil action.³ §265:107-a, IV

Required Use of Child Safety Restraint Systems¹:

Requirements:

No person shall transport a person <4 years old in a motor vehicle unless such child is secured in a Federally approved child passenger restraint. §265:107-a, I

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Violation: 1st offense-A fine of \$25 Subsequent offense-A fine of \$50 §265:107-a, III Note: The law does not appear to assign points for a violation of this requirement.²

Effect on Civil Liability:

A violation of this requirement shall not be used as evidence of contributory negligence in any civil action. §265:107-a, IV

Required Use of Motorcycle Protective Headgear:

Requirements:

I. A person <18 years, who operates or rides on a motorcycle must wear State approved protective headgear.⁴ §265:122, I & II

¹**Exemptions.** These requirements do not apply in the following circumstances: To persons who are being transported (1) in a vehicle used to transport passengers for hire, (2) in a school bus weighing >10,000 lbs, (3) in a school bus weighing <10,000 lbs. which was manufactured without safety belts, (4) in a vehicle manufactured before 1968, (5) on a motorcycle, (6) in an antique motor car or (7) in a vehicle that is being operated in an authorized parade and that is traveling at a speed ≤10 MPH. §265:107-a, II

²A driver <20 years old may have their driving privileges suspended or revoked for "misconduct, misuse or abuse of such privileges." §263:14, III However, such action does not apply to a person <18 years old who violates §265:107, I-a (i.e., who fails to wear a safety belt while operating a motor vehicle) for the first time. §263:14, IV

³In *Thibeault v. Campbell*, 622 A.2d 212 (N.H. 1993), the State supreme court held that "a party's failure to use a seat belt is inadmissible to show negligence where the nonuse may have contributed to the party's injuries but was not a cause of the collision itself." 622 A.2d at 214

⁴This requirement may have been affected by changes to Federal highway safety funding criteria. §265:122, III

NEW HAMPSHIRE

Required Use of Motorcycle Protective Headgear:

Requirements: (continued)

II. An operator cannot transport a passenger <18 years old on a motorcycle unless such passenger is wearing protective headgear. §265:122, IV

Sanctions for Failure to Use:

Violation: A fine of not more than **\$1,000**. §§251:2, IV(a); 265:2; and, 265:122, IV Note: The law does not appear to assign points for a violation of this requirement.²

Required Use of Motorcycle Eye Protection Device:

Requirements:

Unless a motorcycle is equipped with a windshield or screen which protects a driver's eyes, they shall wear either eyeglasses, goggles or a protective face shield when operating such a motor vehicle. §265:123

Sanctions for Failure to Use:

Violation: A fine of not more than **\$1,000**. §§265:2; 625:9, V & 651:2, IV(a) Note: The law does not appear to assign points for a violation of this requirement.²

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None⁵

Sanctions for a Violation:

Exemptions:

⁵Such a prohibition could exist in certain limited circumstances since the law does prohibit a driver from carrying passengers for "consideration" (express or implied) while operating a vehicle designed to transporting goods, materials, commodities, freight or merchandise. However, exemptions exist for persons who are transporting either (1) individuals enrolled in summer camps, (2) students, teachers or employees of colleges or schools for recreational or religious purposes, (3) employees of any town, county, the State or an agency of the Federal Government, (4) employees of the owner of such a vehicle while going to or from their place of employment or (4) individuals in vehicles which have been approved to transport school children under §266:7. §§265:106 & 265:107 A person, who is found guilty of violating this prohibition, commits a statutory "violation" and is subject to a fine of not more than \$1,000. §262:41 & 651:2, IV(a)

In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

NEW JERSEY
New Jersey Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

- I. When a passenger automobile¹ is being operated, (1) the driver, (2) each front seat passenger, (3) all passengers, who are < 8 years old and who weigh > 80 lbs. and (4) all passengers, who are ≥ 8 but < 18 years old, shall wear a safety seat belt. §39:3-76.2f(a)
- II. The driver of a passenger automobile¹ shall secure every passenger, who is ≥ 8 but < 18 years old, in a safety belt. §39:3-76.2f(b)
- Note: Sec. 39:3-76.2f has been held to be constitutional. *State v. Fazekas*, 569 A.2d 913 (N.J.Super.L. 1989)
- III. Each passenger, who is riding in a **school bus** equipped with safety belts, shall wear such a belt when the vehicle is in operation.² §39:3B-11

Sanctions for Failure to Use or
Require the Use of Safety Belts³:

- I. A violation of either I or II above: Quasi-Criminal/Petty Offense.⁴ A fine of \$20. Note: Neither driver licensing nor automobile insurance eligibility points are assessed against a driver's record for a violation of the requirements in I or II above. In addition, a person is not subject to a surcharge under the merit rating plan (§17:29A-35). §39:3-76.2j
- II. A violation of III above: Quasi-Criminal/Petty Offense.⁴ Imprisonment for not more than 30 days and/or a fine of not more than \$50. §39:3B-6
- III. **One dollar (\$1)** is add to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)

¹**Exemptions.** The requirement to use a safety seat belt does not apply in the following circumstances: (1) To persons operating or riding in a passenger automobile manufactured before July 1, 1966 or where such vehicle does not have to have safety seat belts under Federal law; (2) to persons who are unable to wear a safety seat belt for physical or medical reasons; (3) to rural letter carriers of the U.S. Postal Service while performing official duties; and, (4) to "[a] passenger automobile which was originally constructed with fewer safety seat belts systems than are necessary to allow the passenger to be buckled." §39:3-76.2g Note: A "passenger automobile" is defined as any automobile "used and designed for the transportation of passengers, other than omnibuses and school buses." In addition, for the purposes of the safety belt use law, a "passenger automobile" also means a van, a pick-up truck or a utility vehicle. An "automobile" is defined as any motor vehicle except a motorcycle. And, a "motor vehicle" is defined as any vehicle "propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles." §§39:1-1 & 39:3-76.2f

²The law does not specify who is liable (operator or passenger) if a passenger is not in compliance with this requirement.

³**Licensing or Vehicle Registration Action.** A person's license or their vehicle's registration certificate may be suspended or revoked (for an indefinite period of time) under general provisions of the law which allow the driver licensing agency to take such action when a person has violated the traffic laws (i.e., any provision of Title 39, Motor Vehicle and Traffic Regulation). §§39:5-30 & 39:5-31 Note: All of the provisions, concerning vehicle occupant protection (e.g., safety belt usage, child passenger protection, motorcycle helmets, et al.), are codified in Title 39.

⁴Statutory law does not provide a clear classification for this offense. However, State supreme court decisions appear to hold that they are either "quasi-criminal" or petty offenses. *State v. Widmaier*, 724 A.2d 241 (N.J. 1999), *State v. Schreiber*, 585 A.2d 945 (N.J. 1991), *State v. Muniz*, 571 A.2d 948 (N.J. 1990), & *State v. Macuk*, 268 A.2d 1 (N.J. 1970)

NEW JERSEY

Required Use of Safety Belts: (continued)

Effect on Civil Liability:

I. The failure to wear a safety belt is not considered contributory negligence to the extent that such non use would be a bar to recover damages in a traffic accident. However, such non use can be used to reduce damages provided in can be determined that the damages to be reduce could have been avoided by using a safety belt. *Waterson v. General Motors Corp*, 544 A.2d 357 (N.J. 1988)⁵ Note: The law establishing these seat belt use requirements does not alter existing law with respect to the trial of a civil action for damages for personal injuries or death sustained in a motor vehicle accident. §39:3-76.2h

II. **School Bus.** Statutory law specifically provides that a school bus owner or operator is not liable for the injuries sustained by a passenger who fails to either use or properly wear a safety belt when use of such belts is required. §39:3B-11

Required Use of Child Safety Restraint Systems:

Requirements:

A person, transporting a child, who is <8 years old and who weighs <80 lbs., in a motor vehicle (except a school bus)⁶, shall secure such child in a Federally approved child passenger restraint system or booster seat in the rear seat. However, if the vehicle has no rear seats, the child must be secured in a child restraint system or booster seat.⁷ §39:3-76.2a **School Bus.** A child, who is riding in a school bus equipped with safety belts, must be secured in a Federally approved child restraint system. §39:3B-11 Note: This statutory provision does not provide for either age or weight limitations related to child restraint usage.

Sanctions for Failure to Require the Use of Child Restraint Systems³:

I. Quasi-Criminal/Petty Offense.⁴ A fine of not less than **\$10** nor more than **\$25**. §39:3-76.2d Note: The law does not appear to assign points for a violation of this requirement.

II. **School Bus.** Quasi-Criminal/Petty Offense.⁴ For a violation of the requirement to use a child restraint device on a school bus, a person is subject to an imprisonment term of not more than 30 days and/or a fine of not more than \$50. §39:3B-6

III. **One dollar (\$1)** is add to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)

³Evidence of safety belt non-use to reduce damage awards may be limited in cases where the injured party has consumed alcoholic beverages to the point of intoxication. Under such circumstances, the injured party may not understand the dangers associated with not using a safety belt. *Petitto v. Sands Hotel & Casino, Inc.*, 672 A.2d 253 (N.J.Super. A.D. 1996)

⁶This requirement only applies to persons who are operating motor vehicles that are equipped with safety belts. §39:3-76.2a Note: See Footnote No. 1 for a definition of "motor vehicle."

⁷If the number of children <5 years old exceeds the number of available safety belts, unrestrained children must ride in the rear seat of the vehicle. §39:3-76.2b

Required Use of Child Safety Restraint Systems:
(continued)

Effect on Civil Liability:

In no event shall the failure to wear a child passenger restraint system or to use a booster seat be considered as contributory negligence, nor shall the failure to wear a "child passenger restraint system" be admissible as evidence in the trial of any civil action. §39:3-76.2a Likewise, a school bus owner or operator is not liable for the injuries sustained by a child who was not using a child restrained device when such use is required by law. §39:3B-11

Required Use of Motorcycle Protective Headgear⁸:

Requirements:

A person operating or riding on a motorcycle⁹ must wear a State approved protective helmet. §39:3-76.7(a)

Sanctions for Failure to Use³:

I. Quasi-Criminal/Petty Offense.⁴ A fine of not more than **\$25**. §39:3-79 Note: No points are assessed against a person's driving record for a violation of this requirement. §39:3-76.7(b)
II. **One dollar (\$1)** is add to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)

Required Use of Motorcycle Eye Protection Device¹⁰:

Requirements:

No person shall operate a motorcycle⁶ unless they wear State approved goggles or a face shield. §39:3-76.8

Sanctions for Failure to Use³:

I. Quasi-Criminal/Petty Offense.⁴ A fine of not more than **\$25**. §39:3-79 Note: The law does not appear to assign points for a violation of this requirement.
II. **One dollar (\$1)** is add to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)

Required Use of Bicycle Protective Headgear¹¹:

⁸Under separate provisions of law, a motorcycle operator is responsible for making sure that a motorcycle passenger wears a helmet while riding either in an astride position or in a sidecar. An operator, who fails to comply with this requirement, is subject to a fine of not less than **\$50** nor more than **\$100**. §39:3-76.5a

⁹The term "motorcycle" does not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering. §§39:3-76.7 & 39:3-76.8

¹⁰A motorcycle operator does not have to comply with this requirement if the motorcycle is equipped with a State approved wind screen. §39:3-76.9

¹¹**Exemptions.** Via municipal ordinances, a person may be exempt from using a bicycle helmet under the following circumstances: (1) Where the bicycle is being operated on a road or highway that is closed to motor vehicle traffic and is limited only to pedestrian or bicycle traffic or only during specified periods of time during which bicycles may be used; and, (2) where a bicycle is being operated on a trail, route, course, boardwalk, path or other area which has been set aside for pedestrian or bicycle use. However, such exemption shall not be granted when such trail, route, course, boardwalk, path or other area is immediately adjacent to a road or highway used by motor vehicle traffic and where there is no barrier of sufficient height and rigidity to prevent the inadvertent or deliberate entry of a bicycle on such road or highway. §39:4-10.1(c)

NEW JERSEY

Required Use of Bicycle Protective Headgear: (continued)

Requirements:

A person <14 years old shall neither operate nor ride on a bicycle unless they are wearing a nationally approved bicycle helmet. This includes persons who are riding on a bicycle while in a restraining seat or in a trailer being towed by the bicycle. §39:4-10.1(a)

Sanctions for Failure to Use:

- I. A person <14 years old who violates this provision is given a warning citation.¹² §39:4-10.2(a)
- II. Quasi-Criminal/Petty Offense.⁴ If it can be proven that a parent or legal guardian failed to exercise reasonable supervision or control over such person to insure that they comply with this requirement, such parent or legal guardian may for a 1st offense be subject to a fine of not more than \$25 and for a subsequent offense be subject to a fine of not more than \$100². §39:4-10.2(a)
- III. One dollar (\$1) is add to any fine for the Body Armor Replacement Fund and \$1 is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

- I. No person shall ride on and no operator shall knowingly allow a person to ride on a vehicle or any part of a vehicle that is not designed or intended for passenger use. §39:4-69¹³
- II. No person shall ride upon the rear end of a vehicle, without the consent of the driver, and when so riding, no part of the person's body shall protrude beyond the limits of the vehicle. §39:4-61

Sanctions for a Violation³:

- I. Quasi-Criminal/Petty Offense.⁴ An imprisonment term of not more than 15 days and/or a fine of not more than \$50. §39:4-203 Note: The law does not appear to assign points for a violation of these requirements.
- II. One dollar (\$1) is add to any fine for the Body Armor Replacement Fund and \$1 is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) & (e)

Exemptions:

The requirement in I does not apply to an employee engaged in the necessary discharge of a duty. §39:4-69

¹²Under separate provisions of law, a violator may be subject to a fine of not more than \$10. §39:4-203.3

¹³A New Jersey appellate court has held that this provision prohibits a person from riding in the bed of a pickup truck. *Lombardo v. Hoag*, 634 A.2d 550 (N.J.Super.A.D. 1993) (Petition for certification was denied by the N.J. Supreme Court, 640 A.2d 850 (N.J. 1994).)

JURISDICTION:
General Reference:

NEW MEXICO
New Mexico Statutes Annotated & New Mexico Administrative Code
(NMAC)

Required Use of Safety Belts¹:

Requirements:

I. When a motor vehicle² is in operation, **all** occupants (driver and passengers) shall wear a safety belt. §66-7-372(A) Note: The enforcement of this requirement does not have to be associated with the enforcement of any other statute. §66-7-373(D)
II. For passengers < 18 years old, see Required Use of Child Safety Restraint Systems below.

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Penalty Assessment Misdemeanor: A fine of \$25³. §§66-8-7 & 66-8-116(A) In addition, a person's driving record is assessed 2 points. 18 NMAC 19.5.11

Effect on Civil Liability:

Failure to comply with this requirement shall not in any instance constitute fault or negligence and shall not limit or apportion damages. §66-7-373(A) and *Mott v. Sun Country Garden Products, Inc.*, 901 P.2d 192 (N.M.App. 1995)(cert. den. by the N.M. Sup. Ct., 898 P.2d 120)

Required Use of Child Safety Restraint Systems⁴:

Requirements:

I. A person shall not operate a passenger car, van or pick-up truck⁵ unless **all** passengers < 18 years old are "properly restrained." §66-7-369(A)
II. Each person < 18 years old shall be properly secured in either child passenger restraint or safety belt, unless all seating positions that are equipped with safety belts are occupied, as follows:
(1) A child < 1 year old must be properly secured in the rear seat of a vehicle that is equipped with safety belts in a rear-facing child passenger device that meets Federal standards.⁶ §66-7-369(B)(1)

¹**Exemptions.** The requirement to wear a safety belt does not apply (1) to persons who for medical reasons cannot wear such a belt or (2) to rural letter carriers of the U.S. Postal Service when performing official duties. §66-7-371(B)

²The term "motor vehicle" refers either (1) to a motor vehicle having a gross vehicle weight ≤ 10,000 lbs. or (2) to a motor vehicle that must have a safety belt system under Federal law. §66-7-372(A)

³The following additional fees are assessed: A fee of \$10 to cover local government corrections costs; a fee of \$10 to cover the costs of court automation; a fee of \$5 to fund traffic education and enforcement; a fee of \$1 to fund judicial education; and, a fee of \$5 which is deposited into the brain injury services fund. §66-8-116.3

⁴**Exemptions.** The requirement to use either a child passenger restraint system or a safety belt do not apply to children being transported in an authorized emergency vehicle, a public transportation vehicle or a school bus. §66-7-369(A)

⁵This requirement does not apply to persons < 18 years old who are riding either (1) in an authorized emergency vehicle, (2) on public transportation or (3) on a school bus. §66-7-369(A)

⁶In situations where the vehicle is not equipped with a rear seat, the child may ride in the front seat if the passenger-side air bag is deactivated or if the vehicle is not equipped with a deactivation switch for such air bag. §66-7-369(B)(1)

NEW MEXICO

Required Use of Child Safety Restraint Systems: (continued)

Requirements: (continued)

(2) A child ≥ 1 through 4 years old regardless of weight or a child weighing < 40 lbs. regardless of age must be properly secured in a child passenger restraint device that meets Federal standards. §66-7-369(B)(2)

(3) A child ≥ 5 through 12 years old must be properly secured in either a child passenger restraint device or a safety belt. §66-7-369(B)(3)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Penalty Assessment Misdemeanor: A fine of \$25³. §§66-8-7 & 66-8-116(A) In addition, a person's driving record is assessed 2 points. 18 NMAC 19.5.11

Effect on Civil Liability:

Failure to be secured by a child passenger restraint device or by a safety belt shall not in any instance constitute fault or negligence and shall not limit or apportion damages. §§66-7-369(C) & 66-7-373(A)

Required Use of Motorcycle Protective Headgear:

Requirements:

No person < 18 years shall operate or ride on a motorcycle unless they are wearing a State approved safety helmet.⁷ §66-7-356(A)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **90 days** and/or a fine of not more than **\$300**. §66-8-7(A) & (B) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

Unless a motorcycle has a fixed windshield, a motorcycle operator shall wear a State approved eye protection device. §66-7-355(B)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **90 days** and/or a fine of not more than **\$300**. §66-8-7(A) & (B) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

None

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

Note: A person < 18 years old cannot ride in a motor vehicle (which includes a pickup truck) unless they are secured either in a child passenger restraint device or by a safety belt. See above.

⁷Failure to wear a safety helmet in compliance with the law shall not constitute contributory negligence. §66-7-356(B)

JURISDICTION:
General Reference:

NEW YORK

McKinney's Consolidated Laws of New York Note: Most Citations are to the Vehicle and Traffic Law (V&T Law) New York Code of Rules and Regulations (NYCRR)

Required Use of Safety Belts¹:

Requirements:

I. A person, when transporting a child <16 years old in the back seat of a motor vehicle², shall secure such child in a safety belt. V&T Law §1229-c(1)

II. A person, when transporting a person <16 years old in the front seat of a motor vehicle², shall secure such person in a safety belt. V&T Law §1229-c(2)

III. When a motor vehicle² is in operation, the driver and all front seat passengers ≥16 years old shall be secured in a safety belt. V&T Law §1229-c(3)

V&T Law §1229-c has been held neither (1) to exceed the State's constitutional police powers nor (2) to violate a person's constitutional rights of either privacy or equal protection of the laws. *Wells v. State*, 495 N.Y.S.2d 591 (Sup. 1985) (affirmed, 521 N.Y.S.2d 604 (A.D. 4 Dept. 1987))

Sanctions for Failure to Use or
Require the Use of Safety Belts:

I. Civil Fine: A person, who violates III above, is subject to a fine of not more \$50.³ V&T Law §1229-c(5)

¹**Exemptions.** The requirements to use a safety belt do not apply in the following circumstances: (1) To persons who for physical or medical conditions cannot use a safety belt; and, (2) to rural letter carriers of the U.S. Postal Service while performing official duties. V&T Law §1229-c(7) & (10)

Standing Prohibited on Certain Motor Vehicles. I. When the number of passenger is greater than the number of seats available, it is unlawful to operate a camp or charter omnibus for a distance ≥10 miles with any passenger standing. V&T Law §1229-b(1) II. When transporting either students <21 years old, teachers or supervisory personnel, it is unlawful to operate a school bus either to or from a school or on school activities while any passengers are standing. Until June 30, 2004, there are certain exceptions to this requirement based upon the seating capacity of the school bus being operated. V&T Law §1229-b(2) & Education Law §3635-c III. It is a traffic infraction to violated these requirements. The following sanctions may be imposed: For a 1st offense, a fine of not more than \$100 and/or jail for not more than 15 days; for a 2nd offense (within 18 months), a fine of not more than \$200 and /or jail for not more than 45 days; and, for a 3rd or subsequent offense (within 18 months), a fine of not more than \$300 and/or jail for not more than 90 days. V&T Law §1800(a) & (b) The law does not appear to assess points against a driver's license record for a violation of these requirements.

²The term "motor vehicle" does not include a bus, a school bus (except when carrying children <4 years old), an authorized emergency vehicle, a taxi or liveries. V&T Law §1229-c(4), (9) & (11) The term does not include motor vehicles that do not have to be equipped with safety belts under V&T Law §383(1). V&T Law §1229-c(4) In brief, under V&T Law §383(1), only motor vehicles manufactured after June 30, 1964 and designated as model year 1965 or later must be equipped with seat belts.

School Buses. The Vehicle and Traffic Law requires that school buses sold in the State be equipped with seat belts. V&T Law §383(5) In addition, the Education Law provides that a board of education or board of trustees may via regulations provide that safety belts be installed on the school buses under its jurisdiction. Education Law §3635-a Although, the Vehicle and Traffic Law does not require the use of safety belts by persons riding in a school bus, the Education Law provides that a board of education or board of trustees, again, may via regulations provide that on school buses under its jurisdiction safety belts be used when such vehicles are in operation. Education Law §3635-a

³The law is not clear as to whether points can be assigned to a person's driving record for a violation of this requirement. The law provides that 2 points are assigned for a traffic law violation where no specific point value has been assigned for the offense. This would appear to be the case here. However, points cannot be assigned where the violation did "not result from the operation of a motor vehicle." As the law does not clearly provide whether this offense results from vehicle operation, it is uncertain whether points can be assigned for its violation. 15 NYCRR 131.3(a) & (b)(7)(vii) and *People v. Erdman*, 546 N.Y.S.2d 775 (Just.Ct. 1989)

NEW YORK

Required Use of Safety Belts: (continued)

Sanctions for Failure to Use or
Require the Use of Safety Belts: (continued)

II. Civil Fine: A person, who violates either I or II above, is subject to a fine of not less than **\$25** nor more than **\$100**. V&T Law §1229-c(5) In addition, a person is assessed 3 points against their driving record. 15 NYCRR 131.3(b)(6)(vi)

Effect on Civil Liability:

Evidence of non-compliance with these requirements shall not be admissible in any civil action with respect to liability but may be introduced as to the mitigation of damages. However, the party introducing such evidence must plead non-compliance as an affirmative defense.⁴ V&T Law §1229-c(8) This statute was applied in *Stein v. Penatello*, 587 N.Y.S.2d 37 (A.D. 2 Dept. 1992), and *Davis v. Bradford*, 642 N.Y.S.2d 48 (A.D. 2 Dept. 1996).

Required Use of Child Safety Restraint Systems⁵:

Requirements:

I. A person, when transporting a child <4 years old in the back seat of a motor vehicle², shall secure such child in a Federally approved child restraint system. V&T Law §1229-c(1) & *Thorel v. Varghese*, 621 N.Y.S.2d 633 (A.D. 2 Dept. 1995) (applying law only to drivers)

II. A person, when transporting a child <4 years old in the front seat of a motor vehicle², shall secure such child in a Federally approved child restraint system. V&T Law §1229-c(2)

III. Persons transporting children <4 years old in a **school bus** shall secure such children in a Federally approved child restraint system that is detachable or removable. V&T Law §1229-c(11)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Civil Fine: A person who violates any of the above requirements is subject to a fine of not less than **\$25** nor more than **\$100**. V&T Law §1229-c(5) In addition, a person is assessed 3 points against their driving record. 15 NYCRR 131.3(b)(6)(vi)

Effect on Civil Liability:

Evidence of non-compliance with these requirements shall not be admissible in any civil action with respect to liability but may be introduced as to the mitigation of damages. However, the party introducing such evidence must plead non-compliance as an affirmative defense. V&T Law §1229-c(8)

⁴Rear seat passengers, who fail to use a safety belt, can have any damage award for injuries resulting from an automobile accident reduced on the grounds that they failed to mitigate damages. *Spier v. Barker*, 323 N.E.2d 164 (N.Y. 1974), and *Diehl v. Ogorewac*, 836 F.Supp. 88 (E.D. N.Y. 1993)

⁵**Exemptions.** These requirements do not apply to children who for physical or medical conditions cannot use a child restraint system. V&T Law §1229-c(7)

Required Use of Motorcycle Protective Headgear⁶:

Requirements:	Any person who operates or rides on a motorcycle ⁷ shall wear a State approved protective helmet. ⁸ V&T Law §381(6)
Sanctions for Failure to Use:	Imprisonment for not more than 30 days and/or a fine of not more than \$100. ³ V&T Law §381(13)

Required Use of Motorcycle Eye Protection Device:

Requirements:	Any person who operates a motorcycle ⁷ shall wear State approved goggles or a face shield. V&T Law §381(7)
Sanctions for Failure to Use:	Imprisonment for not more than 30 days and/or a fine of not more than \$100. ³ V&T Law §381(13)

Required Use of Bicycle Protective Headgear⁹:

Requirements:	<p>I. A person <14 years old who operates a bicycle shall wear a helmet approved by the Commissioner of Motor Vehicles.¹⁰ V&T Law §1238(2-a) and (5)(a) & (b) and General Business Law §391-m(1)(a)</p> <p>II. No bicycle operator shall allow a person ≥5 but <14 years old to ride on a bicycle unless they are wearing a helmet approved by the Commissioner of Motor Vehicles.¹⁰ V&T Law §1238(2-a) and (5)(a) & (b) and General Business Law §391-m(1)(a)</p> <p>Note: The above two requirements do not apply where a county, city, town or village has enacted a local law or ordinance similar to such law. V&T Law §1238(9)</p>
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⁶Local law enforcement authorities may exempt a person from this requirement when they are participating in an authorized parade or other public exhibition. V&T Law §381(6)

⁷The term "motorcycle" is defined as "[e]very motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor." V&T Law §123 Via judicial interpretation of this provision, this term includes "minibikes." *Dean v. Holland*, 350 N.Y.S.2d 859 (Sup.Ct. 1973), and *Tyler v. Traveler's Ins., Co.*, 442 N.Y.S.2d 746 (Sup.Ct. 1981)

⁸There is authority, at the trial court level, that indicates that the failure to wear protective headgear might be a factor that can be used to reduce a damage award in favor of motorcycle operators or passengers who have sustained injuries in a traffic accident. *Dean v. Holland*, 350 N.Y.S.2d 859 (Sup. 1973), and *Penzell v. State*, 466 N.Y.S.2d 562 (Ct.Cl. 1983)

⁹**Other Requirements.** I. A person is prohibited from transporting a child <1 year old on a bicycle. This prohibition includes carrying such a child in a pack fastened to the operator. There are no sanctions for a 1st violation of this prohibition. However, for a 2nd violations, an offender is subject to a civil fine of not more than \$50. See Footnote No. 10. V&T Law §1238(1) II. No person ≥1 but <14 years old shall ride on in-line skates unless they are wearing a State approved helmet. There is a civil fine of not more than \$50 for a violation of this provision. See Footnote No. 10. V&T Law §1238(5-a) & (6)(a) Note; This requirement does not apply where a county, city, town or village has enacted a local law or ordinance similar to such law. V&T Law §1238(9) **Comment:** Given the language in V&T §1238(5-a) & (6), the fine sanction appears to apply to the individual who is riding on the in-line skates regardless of their age.

¹⁰Failure to comply with these requirements shall not constitute contributory negligence or assumption or risk and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person. In addition, such a failure shall not diminish or reduce the damages recoverable in any action. V&T Law §1238(7)

NEW YORK

Required Use of Bicycle Protective Headgear: (continued)

Requirements: (continued)

III. A person is prohibited from transporting a child ≥ 1 but < 5 years old on a bicycle unless such child is (1) wearing a helmet approved by the Commissioner of Motor Vehicles and (2) is placed in a separate seat which is attached to the bicycle.¹⁰ V&T Law §1238(2)(a) & (b) and (2-a) and General Business Law §391-m(1)(a)

IV. No person < 14 years old shall either ride, propel or operate a two vehicle, commonly called a scooter, unless they are wearing a helmet properly fitted securely on their head with straps.¹⁰ V&T Law §1238(5-b) Note: This requirement does not apply where a county, city, town or village has enacted a local law or ordinance similar to such law. V&T Law §1238(9)

Sanctions for Failure to Use:

Civil Fine: A fine of not more than \$50.¹¹ V&T Law §1238(3) & (6)(a)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. An auto truck (i.e., a pickup truck) cannot be operated > 5 miles if more than one-third of the vehicles passengers are standing.¹² V&T Law §1222(1)

II. An operator (or an owner) of an auto truck (i.e., pickup truck) shall not allow such vehicle to be driven > 5 miles while there are > 5 persons in the bed of such vehicle who are < 18 years old. Important. This requirement does not apply if a person > 18 years old is riding in the bed of the vehicle with these persons. V&T Law §1222(2)

Sanctions for a Violation:

Traffic Infraction: 1st offense-An imprisonment term of not more than **15 days** and/or a fine of not more than **\$100**.³ 2nd offense (within 18 months)-An imprisonment term of not more than **45 days** and/or a fine of not more than **\$200**.³ 3rd or subsequent offense (within 18 months)-An imprisonment term of not more than **90 days** and/or a fine of not more than **\$300**.³ V&T Law §1800(a) & (b)

Exemptions:

I. The requirement of I above does not apply to persons or corporations operating an agency or agencies for public service. V&T Law §1222(1)
II. The requirement in II above does not apply if there is at least one person > 18 years old in the body of the truck. V&T Law §1222(2)

¹¹If the violation of the person < 14 years old occurs in the presence of that person's parents or guardian where such parent or guardian is ≥ 18 years old, the summons for the offense is issued only to the parent or guardian. V&T Law §1238(8) Note: The provisions of V&T Law §1238(8) do not apply to violations of the requirement, under V&T Law §1238(5-b), that persons < 14 years old wear a helmet while riding, propelling or operating a scooter.

¹²This requirement does not apply if the truck (1) has suitable seats that are attached to the vehicle's body, (2) has side racks of a least three feet in height above the vehicle's floor and (3) has tail board or gate which is securely closed. V&T Law §1222(1)

JURISDICTION:
General Reference:

NORTH CAROLINA
General Statutes of North Carolina

Required Use of Safety Belts¹:

Requirements:

When a passenger motor vehicle² is in forward motion, the driver and front seat passengers ≥ 16 years old shall wear safety belts. §20-135.2A(a)

Note: Sec. 20-135.2A has been held to be constitutional. *State v. Swain*, 374 S.E.2d 173 (N.C.App. 1988)

For passengers < 16 years old, see Required Use of Child Restraint Systems below.

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Infraction: A "penalty" of \$25. A driver or passenger convicted of this offense cannot be assessed court costs. §20-135.2A(e) Note: No drivers license points or insurance surcharges shall be assessed as a result of a violation of these requirements. §20-135.2A(f)

Effect on Civil Liability:

Evidence of failure to comply with these requirements shall not be admissible in any criminal or civil trial, action or proceeding except (1) for a violation of such requirement, (2) as a justification for stopping the vehicle or (3) for detaining the vehicle's operator or passengers. §20-135.2A(d) and *Hagwood v. Odom*, 364 S.E.2d 190 (N.C.App. 1988) An appellate court has held that "improper use of a seat belt ... is tantamount to nonuse." 468 S.E.2d at 839 *Chaney v. Young*, 468 S.E.2d 837 (N.C.App. 1996)

Required Use of Child Safety Restraint Systems³:

Requirements:

I. A person, who is transporting a person < 16 years old, shall properly secure **ALL** such persons in either a Federally approved child passenger restraint system or seat belt. §20-137.1(a)

II. A child < 5 years old and weighing < 40 lbs. shall be secured in an appropriate child passenger restraint system. In vehicles with front side

Exemptions. The requirement to use a safety belt does not apply in the following circumstances: (1) To persons who for physical or medical reasons cannot appropriately use a safety belt; (2) to rural letter carriers of the U.S. Postal Service while performing official duties; (3) to drivers or passengers who frequently stop and leave a vehicle (e.g., delivering property) and the speed of the vehicle between stops is ≤ 20 MPH; (4) to persons who are operating certain vehicles that are being used for agricultural or commercial purposes; and, (5) to persons operating or riding in motor vehicles that are not required by Federal law to have safety belts. §20-135.2A(c)

²A "passenger motor vehicle" means a motor vehicle with motive power designed for carrying ≤ 10 passengers but does not include a motorcycle, a motorized pedacycle or a trailer. §20-135.2A(b)

³**Exemptions.** This requirement does not apply in the following circumstances: (1) To children being transported in ambulances or other emergency vehicles; (2) to children when personal needs are being attended to; (3) to children who cannot be restrained in either a child passenger restraint system or safety belt because all such restraints or safety belt seating positions have been occupied; and, (4) to children who are riding in motor vehicles that are not required by Federal law to have safety belts. §20-137.1(b)

Bicycle Child Restraint Requirements. A parent or legal guardian of a person, who weighs < 40 lbs. or is < 40 inches high, cannot knowingly permit such person to ride as a passenger on a bicycle unless they are "properly seated in and adequately secured to a restraining seat." §20-171.9(b)(3) A violation of this requirement is an infraction with a civil fine of up to \$10 (inclusive of all penalty assessments and court costs). §20-171.9(d) See Footnote No. 5 for the definition of bicycle.

NORTH CAROLINA

Required Use of Child Safety Restraint Systems: (continued)

Requirements: (continued)

passenger air bags, such child shall be properly secured in the rear seat unless the child restraint system is designed for use with air bags. §20-137.1(a1)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Infraction: A "penalty" of \$25 (even when more than one child <16 years old was not properly restrained). §20-137.1(c) In addition, two (2) driver license points shall be assessed for a violation of this requirement. However, no insurance points shall be assessed. §§20-16(c) & 20-137.1(d)(1) & (2)

Effect on Civil Liability:

A violation of this requirement (1) shall not constitute negligence per se or contributory negligence per se and (2) is not evidence of negligence or contributory negligence. §20-137.1(d)(3) & (4)

Required Use of Motorcycle Protective Headgear⁴:

Requirements:

No person shall operate or ride on a motorcycle or moped unless they are wearing State approved safety helmets. §20-140.4(a)(2)

Sanctions for Failure to Use:

Non-Criminal Infraction: A fine of \$25. A person convicted of this offense cannot be assessed court costs. §§20-135.2A(e) & 20-140.4(c)
Note: No drivers license points or insurance surcharges shall be assessed as a result of a violation of these requirements. §§20-135.2A(f) & 20-140.4(c)

Required Use of Motorcycle Eye Protection Device:

Requirements:

Note: This requirement is indirectly covered by the above requirement to wear a safety helmet.

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

A parent or legal guardian of a person <16 years old cannot knowingly permit such person to operate or ride as a passenger on a bicycle⁵ unless they are wearing a protective bicycle helmet.⁶ §20-171.9(a)

⁴A violation of this requirement shall not be considered negligence per se or contributory negligence per se in any civil action. §20-140.4(b)

⁵The term "bicycle," in addition to meaning the traditional two wheeled human-powered vehicle, includes a human-powered pedaled vehicle which has more than two wheels. However, this term does not include a "tricycle" which is defined to mean "a three-wheeled human-powered vehicle designed for use as a toy by a single child under the age of six years, the seat of which is no more than two feet from the ground." §20-171.8(1) & (9)

⁶"Protective bicycle helmet" means "a piece of headgear that meets or exceeds the impact standards for protective bicycle helmets set by the American National Standards Institute (ANSI) or the Snell Memorial Foundation." §20-171.8(5)

Required Use of Bicycle Protective Headgear:
(continued)

Sanctions for Failure to Use:

Infraction: A civil fine of up to **\$10** (inclusive of all penalty assessments and court costs) §20-171.9(d)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

A person shall not transport a child <12 years old in the open bed or cargo area of a vehicle. An open bed or cargo area is a bed or cargo area without permanent overhead restraining construction. §20-135.2B(a)

Sanctions for a Violation:

Infraction: A "penalty" of **\$25**. A person is not assessed court costs for a violation of this requirement. §20-135.2B(c) Note: No drivers license points or insurance surcharge shall be assessed on account of a violation of this requirement. §20-135.2B(d)

Exemptions:

This requirement does not apply in the following circumstances: (1) A supervising adult is present in the bed or cargo area; (2) the child is secured or restrained in a safety belt; (3) an emergency situation exists; (4) the vehicle is being used in an official parade; (5) the vehicle is operated in an agricultural enterprise; and, (6) the vehicle is being operated in a county with incorporated areas of ≤3,500 population. §20-135.2B(b)

NORTH CAROLINA

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

NORTH DAKOTA
North Dakota Century Code Annotated

Required Use of Safety Belts¹:

Requirements:

When a motor vehicle² is in operation, front seat occupants (driver and passengers) shall wear safety belts. §39-21-41.4 See Required Use of Child Safety Restraint Systems below.

Secondary Enforcement. A citation for a violation of this requirement cannot be issued by a law enforcement officer unless the driver has been lawfully stopped or detained for another violation. §39-21-41.5

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Non-Criminal Fee: A fee of not more than \$20. §§39-06.1-06(9) & 39-21-46(1) Note: Driver's license points may not be assessed against any person for a violation of this requirement. §39-21-41.5

Effect on Civil Liability:

There are no statutory provisions.³

Required Use of Child Safety Restraint Systems⁴:

Requirements:

I. When a motor vehicle⁵ is in motion, a passenger (child) <4 years old must be secured in a Federally approved child restraint system. §39-21-41.2(1)

II. When a motor vehicle⁵ is in motion, a passenger (child) ≥4 but ≤17 years old must be secured either (1) in a Federally approved child restraint system or (2) in a safety belt. §39-21-41.2(1)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

No fine or incarceration sanction. However, the law does assign one (1) point for a violation of these requirements. §39-06.1-10(3)(a)(34)

Effect on Civil Liability:

A violation of these requirements is not, in itself, evidence of negligence and a violation is not admissible in any proceeding other than one charging such a violation. §39-21-41.2(2)

¹**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) To driver of implements of husbandry or farm vehicles; (2) to rural mail carriers while on official business; (3) to persons who for physical or medical reasons cannot use a safety belt; and, (4) to persons who cannot use a safety belt because all of the available belts are already in use. §39-21-41.4

²The term "motor vehicle" applies only to motor vehicles that were (1) designed to carry fewer than 11 persons and (2) originally manufactured with safety belts. §39-21-41.4

³Given the holding in *Halvorson v. Voeller*, 336 N.W.2d 118 (N.D. 1983), concerning the non-use of protective headgear by a motorcycle rider, it is possible that evidence of a failure to wear a safety belt could be admitted to determine if such a failure was a factor in causing injuries to the non wearer.

⁴**Exemptions.** The requirement to use either a child restraint system or a safety belt does not apply either (1) to a child if all of the available safety belts in the vehicle are in use by other family members or (2) to a child being transported in an emergency situation. §39-21-41.2(1)

⁵The term "motor vehicle" does not include a motor vehicle that was not equipped with safety belts when it was manufactured. §39-21-41.2(1)

NORTH DAKOTA

Required Use of Motorcycle Protective Headgear⁶:

Requirements:

No person <18 years old may operate or ride on a motorcycle unless they wear State approved protective headgear. §39-10.2-06(1) This requirement does not apply to persons riding within an enclosed cab or on a golf cart. §39-10.2-06(2)

Sanctions for Failure to Use:

Infraction: A fine of not more than \$500.⁷ §§12.1-32-01(7) & 39-07-06
Note: A person violating this requirement is assessed two (2) points against their driver's license record.⁸ §39-06.1-10(3)(a)(28)

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None⁹

Sanctions for a Violation:

⁶In a traffic accident situation, evidence of failure to wear protective headgear may be admitted into evidence to determine if such a failure was a factor in causing injuries to the non-user. In analyzing this evidence, the court should also consider whether a person would have worn a helmet in order to avoid or to mitigate their injuries. *Halvorson v. Voeller*, 336 N.W.2d 118 (N.D. 1983)

⁷A person, who is convicted of any subsequent infraction within 18 months of a previous infraction offense conviction, may be sentenced as if they had been convicted of a Class B Misdemeanor. The sanctions for this misdemeanor are an imprisonment term of not more than 30 days and/or a fine of not more than \$500. §12.1-32-01(6) & (7)

⁸**Persons Under 18 Years Old.** A person under 18 yrs old, who has accumulated > 5 points, must have their driving privileges canceled. Such a person is considered to never to have had a license and, after any period of suspension or revocation, they may apply for and be issued an instructional permit. Such individuals must complete certain State required classroom and behind-the-wheel instruction and satisfy all other requirements for licensing prior to being issued a driver's license. §§14-10-01 & 39-06-01.1

⁹Even though there is no statutory authority prohibiting this activity, such a prohibition may have been established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

OHIO
Ohio Revised Code Annotated

Required Use of Safety Belts¹:

Requirements:

I. No person shall operate an automobile² (or school bus) unless they wear a safety belt³. §4513.263(A)(2) & (B)(1)
II. A person shall not operate an automobile² unless all front seat passengers are wearing safety belts³. §4513.263(A)(3) & (B)(2)
III. A front seat passenger shall not ride in an automobile² unless they are wearing a safety belt³. §4513.263(A)(2) & (B)(3)
Secondary Enforcement. A law enforcement officer shall not stop a person operating an automobile for the sole purpose of determining a violation of these requirements. §4513.263(D)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

I. A person who violates I⁴ above is subject to a fine of **\$25** (Minor Misdemeanor). §§2901.02(G) & 4513.99(F)
II. A passenger who violates III above is subject to a fine of **\$15** (Minor Misdemeanor). §§2901.02(G) & 4513.99(G)
Note: No points are to be assessed against person's driving record for a violation of the above requirements. §4507.021(G)(16)

Effect on Civil Liability:

A violation of these requirements may be considered as either contributory negligence or tortious conduct if the violation contributed to the harm. And, such failure may be used to diminish recovery of compensatory damages in a civil action. §4513.263(F)

Required Use of Child Safety Restraint Systems⁵:

Requirements:

For a motor vehicle⁶ that is registered in this State, the operator (except a taxicab or public safety vehicle⁷ operator), who transports a child who is <4 years old or who weighs <40 lbs., shall secure such child in a

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To automobile operators while performing official duties for the U.S. Postal Service; (2) to automobile operators who are delivering newspapers; and, (3) to persons who for physical reasons cannot use a safety belt. §4513.263(C)

²The term "automobile" means any commercial tractor, passenger car, commercial car or truck that is required to have safety belts under Federal law. §4513.263(A)(1)

³The law refers to a safety belt as an "occupant restraining device." §4513.263(A)(2)

⁴Note: The law is not clear as to whether there is a penalty for a violation of II. The penalty provision of the law, §4513.99, does not provide a specific sanction for a violation of this requirement. However, the sanction for a violation of I may apply.

⁵**Exemptions.** The requirement to use a child restraint system does not apply when an emergency exist that threatens the life of either the vehicle operator or the child. §4511.81(E)

⁶This requirement only applies to motor vehicles that are required to be equipped with seat belts under Federal law. §4511.81(A)

⁷A "public safety vehicle" means either (1) ambulances, (2) a motor vehicles used by law enforcement officers, (3) motor vehicles used to provide emergency medical services, (4) vehicles used by fire departments or (5) vehicles used by the commercial motor vehicle safety enforcement unit. §4511.01(E)

OHIO

Required Use of Child Safety Restraint Systems: (continued)

Requirements: (continued)

Federally approved child restraint system.⁸ §4511.81(A)

Sanctions for Failure to Require the Use of Child Restraint Systems:

1st offense (Minor Misdemeanor)-A fine of not more than **\$100**. §§2929.21(D) & 4511.99(H)(1)(a) Subsequent offense (4th Degree Misdemeanor)-An imprisonment term of not more than **30 days** and/or a fine of not more than **\$250**. §§2929.21(B)(4), (C)(4) & (D), 4511.81(F) and 4511.99(H)(1) & (2) In addition, although the law is not specific, it appears that a person is assessed 2 points against their driving record. §4507.021(G)(16)

Effect on Civil Liability:

The failure an operator to comply with this requirement is not negligence which can be imputed to the child. Evidence of such a failure is not admissible in any civil action of the child to recover damages against any other person. §4511.81(D)

Required Use of Motorcycle Protective Headgear⁹:

Requirements:

- I. No person < 18 years old, who holds a motorcycle operator's license, shall operate or be a passenger on a motorcycle unless they are wearing a State approved protective helmet. §4511.53 (¶6)
- II. No person (regardless of age), who holds a novice motorcycle operator's license, shall operate or be a passenger on a motorcycle unless they are wearing a State approved protective helmet. §4511.53 (¶6)
- III. A person (regardless of age), who is a passenger on a motorcycle operated by a person < 18 years, must wear a State approved protective helmet. §4511.53 (¶6)

Sanctions for Failure to Use:

1st offense (Minor Misdemeanor)-A fine of not more than **\$100**. 2nd offense (within 1 year) (4th Degree Misdemeanor)-An imprisonment term of not more than **30 days** and/or a fine of not more than **\$250**. 3rd or subsequent offense (within 1 year) (3rd Degree Misdemeanor)-An imprisonment term of not more than **60 days** and/or a fine of not more than **\$500**. §§2929.21(B)(3), (B)(4), (C)(3), (C)(4) & (D) and 4511.99(D) In addition, although the law is not specific, it appears that a person is assessed 2 points against their driving record. §4507.021(G)(16)

Required Use of Motorcycle Eye Protection Device:

Requirements:

No person shall operate or ride on a motorcycle without using safety

⁸This same requirement applies to persons who transport children in motor vehicles (except taxicabs) for nursery schools, kindergartens or day-care centers. §4511.81(B)

⁹**Motorized Bicycle.** A person < 18 years old, who operates a motorized bicycle, shall wear a protective helmet. §4511.521 A violation of this requirement is a Minor Misdemeanor. §4511.99(F) A person, who has been convicted of a Minor Misdemeanor, is subject to a fine of not more than **\$100**. §2929.21(D)

Required Use of Motorcycle Eye Protection Device:
(continued)

Requirements: (continued)

glasses or other protective eye device. §4511.53 (F)(6)

Sanctions for Failure to Use:

1st offense (Minor Misdemeanor)-A fine of not more than \$100. 2nd offense (within 1 year) (4th Degree Misdemeanor)-An imprisonment term of not more than 30 days and/or a fine of not more than \$250. 3rd or subsequent offense (within 1 year) (3rd Degree Misdemeanor)-An imprisonment term of not more than 60 days and/or a fine of not more than \$500. §§2929.21(B)(3), (B)(4), (C)(3), (C)(4) & (D) and 4511.99(D) In addition, although the law is not specific, it appears that a person is assessed 2 points against their driving record. §4507.021(G)(16)

Required Use of Bicycle Protective Headgear:

Requirements:

None Note: See Motorized Bicycle in Footnote No. 9.

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. A driver of a truck, trailer or semitrailer shall not knowingly permit a person <16 years old to ride in the vehicle's unenclosed or unroofed cargo storage area when such vehicle is traveling >25 MPH. §4511.51(E)
II. A driver of a truck, trailer or semitrailer shall not permit a person to ride in the cargo storage area or a tailgate of the vehicle while the tailgate is unlatched. §4511.51(F)
III. No operator shall allow a person to and no person shall hang onto or ride on the outside of any motor vehicle, streetcar or trackless trolley while it is moving. §4511.51(C) & (D)

Sanctions for a Violation:

I. A violation of the requirements in I and II above is a Minor Misdemeanor: A fine of not more than \$100. §§2929.21(d) & 4511.99(F)
II. The following sanctions apply for a violation of III above. 1st offense (Minor Misdemeanor)-A fine of not more than \$100. 2nd offense (within 1 year) (4th Degree Misdemeanor)-A jail term of not more than 30 days and/or a fine of not more than \$250. 3rd or subsequent offense (within 1 year) (3rd Degree Misdemeanor)-A jail term of not more than 60 days and/or a fine of not more than \$500. §§2929.21 & 4511.99(D)(1)
III. Although the law is not specific, it appears that a person is assessed 2 points against their driving record for a violation of the above requirements. §4507.021(G)(16)

OHIO

Prohibition Against Riding in Unsecured
Portion of Vehicle: (continued)

Exemptions:

I. The requirement in I above does not apply in the following circumstances: (1) The person < 16 years old is seated in the cargo area and is wearing a safety belt. And, (2) an emergency exist that threatens the life of either the driver or the person < 16 years old. §4511.51(E)(1) & (2)

II. The requirement in II above does not apply to workers who riding in such vehicles and who are performing specialized highway or street maintenance or construction under the authority of a public agency. §4511.51(F)

III. The requirement in III does not apply to mechanics or test engineers making repairs or adjustments or to workers performing specialized highway or street maintenance or construction under the authority of a public agency. §4511.51(C) & (D)

JURISDICTION:
General Reference:

OKLAHOMA
Oklahoma Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

When a passenger car² is in use, the driver and every front seat passenger shall wear a properly adjusted and fastened safety seat belt system.³ Title 47, §12-417(A)

Note: A local safety belt use ordinance, which was similar to the State's safety belt use law, has been held to be constitutional. *City of Tulsa v. Martin*, 775 P.2d 824 (Okla.Cr. 1989)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: Fine³ and court costs cannot exceed \$20. No points shall be assessed against an offender's driving record. Title 47, §§12-417(D) & (E), 12-418 and 17-101(A)

Effect on Civil Liability:

A violation of this requirement shall not be used in a civil proceeding and use or nonuse of a seat belt shall not be submitted into evidence in any civil suit. Title 47, §12-420

Required Use of Child Safety Restraint Systems⁴:

Requirements:

I. A resident driver, when transporting a child <4 years old and weighing ≤60 lbs. in a motor vehicle, shall secure such child in a Federally approved child restraint system. Title 47, §11-1112(A) & (C)(1) II. A resident driver, when transporting children ≥4 but <13 years old, must secure such child in either a child passenger restraint system or a seat belt. Title 47, §11-1112(B) & (C)(1)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Misdemeanor: A fine of \$10 plus court costs of not more than \$15. No points shall be assessed for a violation of these requirements. Title 47, §§11-1112(G) & 17-101(A)

Exemptions. The requirement to use a safety seat belt system does not apply in the following circumstances: (1) To drivers or passengers who are unable to wear such a belt for medical reasons; and, (2) to route carriers of the U.S. Postal Service while performing official duties. Title 47, §12-417(B) & (C)

²The safety belt requirement applies to motor vehicles that are required to have safety belts under Federal law. In addition, the term "passenger car" is defined as a "vehicle" which means any type of conveyance which transports persons or property on a highway. The term "vehicle," does not include bicycles, trailers (except travel trailers and rental trailers), implements of husbandry (farm vehicles), trucks, truck-tractors, recreational vehicles, motorcycles and motorized bicycles. However, "passenger car" does include the passenger compartment of pickups, van, minivans and sport utility vehicles but does not include vehicles used primarily for farm use (I.e., a "pickup, truck, truck-tractor owned and operated by one or more farmers and used primarily for farm use and not for commercial or industrial purposes."). Title 47, §§12-417, 1102(30) & 1134(A)

³The operator of a school bus shall wear a seat belt when such vehicle is in motion. A person, who violates this requirement, commits a misdemeanor and is subject to fine of not less than \$25 nor more than \$100. Title 70, §24-121

Exemptions. These requirements do not apply in the following circumstances: (1) To a driver who is operating a school bus, taxicab, moped, motorcycle or a motor vehicle that is not required to be equipped with safety belts; (2) to a driver of an ambulance or emergency vehicle; (3) to a driver where all of the available seat belts are in use; and, (4) to children who for medical reasons are unable to use either a child restraint system or a seat belt. Title 47, §11-1112(C)(2), (3), (4) & (5)

OKLAHOMA

Required Use of Child Safety Restraint Systems: (continued)

Effect on Civil Liability:

A violation of these requirements shall not be admissible as evidence in any civil action or proceeding for damages. Also, in any action brought by or on behalf of an infant for personal injuries or wrongful death, the failure to comply with these requirements shall not be used in the aggravation or mitigation of damages. Title 47, §11-1112(E) & (F)

Required Use of Motorcycle Protective Headgear:

Requirements:

When operating or riding on a motorcycle, motor-driven cycle or motor scooter,⁵ a person <18 years old shall "properly" wear a crash helmet that complies with 49 CFR 571.218. Title 47, §40-105(B)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **6 months** and/or a fine of not less than **\$5** nor more than **\$500**.⁶ Title 47, §§17-101(C) & 40-106 Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

If a motorcycle or motor scooter is not equipped with a windshield, the operator shall wear goggles or a face shield which is designed to protect them from foreign objects. Title 47, §40-105(B)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **6 months** and/or a fine of not less than **\$5** nor more than **\$500**.⁶ Title 47, §§17-101(C) & 40-106 Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear⁷:

Requirements:

When operating an electric-assisted bicycle, a person ≤18 years old shall wear a nationally approved bicycle helmet. Title 47, §19-201(5)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **6 months** and/or a fine of not less than **\$5** nor more than **\$500**.⁶ Title 47, §17-101(C) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Eye Protection Device:

Requirements:

None

⁵Applies only when riding motor scooters on a public road. Title 47, §40-105

⁶There appears to be a mandatory fine of \$20 of which \$10 is deposited into a public safety patrol vehicle revolving fund. Title 47, §17-101(C)

⁷The Oklahoma Legislature has adopted a resolution encouraging municipalities to enact ordinances that require persons <16 years old, who are riding on a bicycle (operator or passenger), to wear a safety helmet. House Concurrent Resolution 1003 adopted in 1997

Required Use of Bicycle Eye Protection Device:
(continued)

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements:

A person, who is operating motor vehicle, shall not allow passengers to ride outside of the "passenger compartment" of the vehicle. Title 47, §11-1114(A)

Sanctions for a Violation:

Misdemeanor: A fine of **\$10** plus court costs of **\$15**. The law specifically provides that no points shall be assessed against a driver for a violation of this requirement. Title 47, §§11-1114(A) & 17-101(A)

Exemptions:

This requirement does not apply either (1) to passengers riding in a vehicle either on private property, in a parade or for special events or (2) to passengers riding "on the bed of a pickup truck." Title 47, §11-1114(A)

OKLAHOMA

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

OREGON
Oregon Revised Statutes and Oregon Administrative Rules (OAR)

Required Use of Safety Belts¹:

Requirements:

- I. Before a person operates a motor vehicle², they must secure themselves in a safety belt. §811.210(1)(a).
- II. A driver cannot operate a motor vehicle² unless all passengers <16 years old are secured in a safety belt, child safety system or safety harness. §811.210(1)(b)
- III. A motor vehicle passenger ≥16 years old must secure themselves in a safety belt. §811.210(1)(c)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Class D Traffic Violation³: A fine of not more than \$75.⁴ §§153.018(1) & (2), 801.550 and 811.210(3)

Effect on Civil Liability:

Evidence of a failure to comply with these requirements may be admitted only to mitigate damages. The mitigation of damages cannot be >5% of the damages that would have otherwise been awarded. §18.590(1) However, this restriction does not apply if nonuse of a safety belt was as substantial or contributing cause of the accident which resulted in the personal injuries. §18.590(2)(B) and *Rectenwald v. Snider*, 894 P.2d 1242 (Or.App. 1995)

Exemptions. The requirements to use a safety belt, child safety system or safety harness do not apply in the following circumstances: (1) To persons riding in privately owned commercial vehicles which are designed to carry persons for compensation (profit) or to carry property (This exemption does not apply to pickup trucks weighing <8,000 lbs.); (2) to persons riding in vehicles that were not required to be equipped with safety belts or safety harnesses at the time the vehicle was manufactured; (3) to persons who are riding in vehicles that have been specifically exempted from having safety belts or safety harnesses under §815.080; (4) to a person who cannot use either safety belt, child safety system or safety harness because such use would be impractical or harmful to the person by reason of physical condition, medical problem or body size; (5) to passengers where all of the available seating positions are already occupied; (6) to persons being transported in the custody of a law enforcement officers; (7) to persons who are delivering newspapers or mail when in the regular course of work; (8) to persons who are administering medical aid to another individual while riding in an ambulance where the use of a safety belt or safety harness would substantially inhibit such aid; (9) to persons who are reading utility meters in the regular course of work; (10) to persons who are employed to operate a vehicle owned by a mass transit district while the vehicle is being used for the transportation of passengers; and, (11) to persons who are collecting solid waste or recyclable materials in the regular course of work. §§801.210, 811.215 & 811.220

²The requirements to use either a safety belt or child safety system applies to motor vehicles that are primarily designed for the transportation of individuals and that have seating for one or more passengers side-by-side with the operator. §811.215(3) & 815.080(1)(a)

³There is also a **Unitary Assessment** of \$35 and a **County Assessment** of between \$5 and \$59. §§137.290(1)(d) & 137.309

⁴I. Depending upon the number of traffic offenses a person has committed, a person may have to participate in a Driver Improvement Program. Under this program, a person's driving privileges can be restricted and, in some cases, suspended. ORA 735-72-000 et seq.
II. A provisional licensee (a licensee <18 years old) who violates §811.210 is subject to the following sanctions. For a 1st offense, a letter is issued warning the licensee of the consequences of continued violations. However, if the licensee has a previous traffic offense conviction, which includes a prior violation of §811.210, their driving privileges are suspended until they complete a driver improvement program. §809.405

OREGON

Required Use of Child Safety Restraint Systems¹:

Requirements:

- I. A driver, when transporting a child, who is <4 years old and who weighs ≤40 lbs. in a motor vehicle², must secure such child in State/Federally approved child safety system. §§811.210(2)(a) & 815.055(1)(b)
- II. A driver, when transporting a child, who is ≥4 but <6 years old or who weighs between 40 and 60 lbs. in a motor vehicle², must secure such child in "a child safety system that elevates the person so that a safety belt or safety harness properly fits³ the person." §§811.210(2)(b) & 815.055(1)(b)
- III. A driver, when transporting a child, who is ≥6 years old and who weighs ≥60 lbs in a motor vehicle², must secure such child in either a safety belt or State approved safety harness. §§811.210(2)(c) & 815.055(1)(b)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Class D Traffic Violation³: A fine of not more than \$75.⁴ §§153.018(1) & (2), 801.550 and 811.210(3)

Effect on Civil Liability:

Evidence of a failure to comply with these requirements may be admitted only to mitigate damages. The mitigation of damages cannot be >5% of the damages that would have otherwise been awarded. §18.590(1) However, this restriction does not apply if nonuse of a safety belt was as substantial or contributing cause of the accident which resulted in the personal injuries. §18.590(2)(B)

Required Use of Motorcycle Protective Headgear⁶:

Requirements:

- I. A person, who operates or rides on a motorcycle or a moped, must wear a motorcycle helmet. §§814.260(1), 814.269(1), 814.275(1) & 814.280(1)
- II. A person, who operates a "motor assisted scooter" on a highway or on "premises open to the public," must wear bicycle type protective headgear. There is an exemption based on a person's religious beliefs or practices. §814.____ (§16 of Ch. 749 (2001))

Sanctions for Failure to Use:

- I. A violation of the requirement in I above: Class D Traffic Violation³: A fine of not more than \$75.⁴ §§153.018(1) & (2), 801.550, 814.260(4), 814.269(3), 814.275(3) and 814.280(3)
- II. A violation of the requirement in II above: Traffic Violation: A maximum fine of \$25. §814.____ (§16 of Ch. 749 (2001))

³"Proper fit" means "the lap belt of the safety belt or safety harness is positioned low across the thighs and the shoulder belt is positioned over the collarbone and away from the neck." §811.210(2)(b)

⁶The requirement to wear a motorcycle helmet does not apply if (1) the person is riding in an enclosed cab or (2) a person is riding in a vehicle that is designed to travel with three wheels at a speed <15 MPH. §§814.260(2), 814.269(2), 814.275(2), 814.280(2) & 814.290

Required Use of Motorcycle Eye Protection Device:

Requirements:

Note: This requirement is indirectly covered by the above requirement to wear a motorcycle helmet.

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear⁷:

Requirements:

- I. A person <16 years old, who operates or rides on a bicycle, must wear protective headgear⁸. §814.485(1)
- II. A person cannot operate a bicycle with a passenger <16 years old unless such passenger is wearing protective headgear. §814.486(1)(b)
- III. It is illegal for a parent or legal guardian to allow their child <16 years old to operate or ride a bicycle unless such child wears protective headgear. §814.486(1)(b)

Sanctions for Failure to Use:

Traffic Infraction (Violation)⁹: A fine of not more than \$25.⁹ §§801.550, 814.485(3) & 814.486(3)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None¹⁰

Sanctions for a Violation:

Exemptions:

⁷A person is exempt from this requirement if the use of bicycle protective headgear would violate a religious belief or practice of the person. §814.487

⁸The State is required to adopt standards for bicycle helmets that conform, "insofar as practicable," to the standards for such protective headgear as issued by either the American National Standards Institute, Snell or the U.S. Department of Transportation. §815.052

⁹If the offender is ≤11 years old, a citation for a violation of this requirement is issued to that child's parent or legal guardian. §814.488(1) If the offender is ≥12 but <16 years old, a citation for a violation of this requirement may be issued to either the child or to the child's parent or legal guardian. Note: Citations cannot be issued to both the child and the parent or legal guardian. §814.488(2)

¹⁰The safety belt usage and child passenger protection laws may have indirectly established such a prohibition.

OREGON

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

PENNSYLVANIA
Pennsylvania Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

I. When a motor vehicle² is in operation, the driver and front seat passengers shall wear a safety belt. Title 75, §4581(a)(2)

II. If a passenger is ≥4 but <18 years old, the motor vehicle operator shall secure such passenger in a safety belt. Title 75, §4581(a)(2)

III. A driver <18 years old may not operate a motor vehicle in which the number of passengers exceeds the number of available safety belts. Title 75, §4581(a)(3)

Secondary Enforcement. A conviction for a violation of requirements I or II above shall occur only as a secondary action when a driver has been convicted of another offense under the Vehicle Code. Title 75, §4581(a)(2) & (b)

Sanctions for Failure to Use or
Require the Use of Safety Belts³:

Summary Offense: A fine of **\$10**. No other costs can be assessed for a violation of these requirements. In addition, a violation of such requirements shall not result in the assessment of points against a person's driver record and is not considered to be a moving violation. Title 75, §4581(2) (f)(2) & (b) A violation of these requirements cannot be used to increase insurance premiums.⁴ Title 75, §4581(h) Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

A violation of these requirements cannot be admitted into evidence at a civil trial. A jury cannot be instructed that such a violation constitutes a violation. In addition, such a violation cannot be considered contributory negligence.⁵ Title 75, §4581(e)

¹Exemptions. The requirement to wear a safety belt does not apply in the following circumstances: (1) To persons riding in motor vehicles manufactured before July 1, 1966; (2) to persons who for physical or medical reasons cannot wear a safety belt; (3) to rural letter carriers of the U.S. Postal Service while performing official duties; and, (4) to drivers who make frequent stops for the purpose of delivering goods or services and where the vehicle is traveling <15 MPH. Title 75, §4581(2)(i), (ii), (iii) & (iv)

²The term "motor vehicle" means a passenger car, Class I truck (weighing ≤5,000 lbs.), Class II truck (weighing ≥7,001 but ≤7,000 lbs.) or motor home. Title 75, §§1916(a)(1) & 4581(a)(2)

³**Junior Drivers.** A "junior driver" (a licensee 16 or 17 years old) is subject a suspension of their driving privileges until they are 18 years old or for a period not to exceed 90 days if they are convicted of **any** violation of Title 75. Title 75, §1503(c)(3)

⁴In addition, under separate statutory provisions, a violation of these requirements shall not be used as evidence by an insurer for any purpose. Title 75, §4585

⁵Evidence of a violation of these requirements can only be admitted at a criminal trial to prove such violation. I.e., such evidence cannot be admitted into evidence in any other criminal proceeding. Title 75, §4581(f)

PENNSYLVANIA

Required Use of Child Safety Restraint Systems⁶:

Requirements:

Where there is a seating position available with a safety belt, a person, who is transporting a child <4 years old in a motor vehicle⁷, must secure such child in a Federally approved child passenger restraint system. Title 75, §4581(a)(1)

Sanctions for Failure to Require the Use of Child Restraint Systems³:

Summary Offense: A fine of not more than \$25. Title 75, §4581(b) A violation is not considered a moving violation. Title 75, §4581(b) And, a violation of these requirements cannot be used to increase insurance premiums.⁴ Title 75, §4581(h) Note: The law does not appear to assign points for a violation of this requirement.

Effect on Civil Liability:

A violation of these requirements cannot be admitted into evidence at a civil trial. A jury cannot be instructed that such a violation constitutes a violation. In addition, such a violation cannot be considered contributory negligence.⁵ Title 75, §4581(e)

Required Use of Motorcycle Protective Headgear⁸:

Requirements:

No person shall operate or ride on a motorcycle or motor-driven cycle (except a motorized pedalcycle) unless they are wearing State approved protective headgear. Title 75, §3525(a)

Sanctions for Failure to Use³:

Summary Offense: A fine of \$25. Title 75, §6502(a) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device⁸:

Requirements:

No person shall operate or ride a motorcycle or motor-driven cycle (except a motorized pedalcycle) unless they are wearing a State approved eye-protection device. Title 75, §3525(b)

Sanctions for Failure to Use³:

Summary Offense: A fine of \$25. Title 75, §6502(a) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear⁹:

Requirements:

A person <12 years old shall wear a nationally approved pedalcycle

⁶**Exemptions.** The requirement to use a child passenger restraint system does not apply if the use of such a system would be impractical for physical (e.g., size of the child) or medical reasons. Title 75, §4581(g)

⁷The term "motor vehicle" means a passenger car, Class I truck (weighing ≤5,000 lbs.), Class II truck (weighing ≥5,001 but ≤7,000 lbs.), classic motor vehicle, antique motor vehicle or motor home. Title 75, §§1916(a)(1) & 4581(a)(1)

⁸The requirement to wear protective headgear and an eye-protection device does not apply to operators or occupants of a three-wheeled motorcycle equipped with an enclosed cab. Title 75, §3525(d)

⁹This requirement does not apply if the child <12 years old can produce a statement from the family's church authorities attesting that it is against the tenets of the family's religion to wear a helmet. Title 75, §3510(b.3)

Required Use of Bicycle Protective Headgear:
(continued)

Requirements:(continued)

(bicycle) helmet when operating or riding on a pedalcycle (bicycle).¹⁰
Title 75, §3510(a)

Sanctions for Failure to Use:

Summary Offense: A fine of not more than **\$25**.¹¹ Title 75, §§3510(d) & 6502(a) Note: A violation of this requirement shall not be used as evidence in any civil action. Such evidence shall not be used to instruct a jury that such conduct constituted a violation of this requirement. And, such evidence shall not be considered as contributory negligence. Title 75, §3510(c)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

- I. A person cannot operate either an open-bed pickup truck or open flatbed truck >35 MPH if a person is occupying the bed of such truck. Title 75, §3719(a)
- II. A person cannot operate either an open-bed pickup truck or open flatbed truck at any speed if a person <18 years old is occupying the bed of such truck or trailer. Title 75, §3719(b)(1)
- III. A child <4 years old, who is being transported in the cargo area of a motor vehicle, must be secured in a child passenger restraint system. Title 75, §4581(a)(1)

Sanctions for a Violation:

- I. It is a Summary Offense to violate the requirements in either I or II above. The sanction for a Summary Offense is a fine of not more than **\$25**. Title 75, §6502(a)
- II. For the sanctions related to a violation of requirement III above, see the sanctions for a violation of the requirements for the use of Child Safety Restraint Systems.

Exemptions:

The prohibition contained in requirement II above does not apply to (1) a child of or a child employed by a farmer where the child is being transported either between parts of the farm or for farm work, (2) a child being transported between a hunting camp and a hunting site or (3) a child who is participating in an authorized parade. Title 75, §3719(b)(2)

¹⁰This requirement also applies if the person <12 years old is riding either in a restraining seat attached to the pedalcycle (bicycle) or in a trailer towed by a pedalcycle (bicycle). Title 75, §3510(a)

¹¹The parent or legal guardian of the child who violates this requirement shall be jointly and severally liable with such child for the amount of the fine. Title 75, §3510(d)

PENNSYLVANIA

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

PUERTO RICO

Law of Puerto Rico Annotated (Updated through 1995)

Important. The Legislature of Puerto Rico made substantial revisions to Puerto Rico's motor vehicle laws in 2000. However, the annotated code has not been updated to reflect these revisions.

Required Use of Safety Belts¹:

Requirements:

When a motor vehicle is being operated, the driver and all passengers shall wear safety belts.² Title 9, §1212(a)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Administrative Offense: A fine of **\$10**. Title 9, §§1214 & 1871(72)
Note: The law does not appear to assign points for a violation of this requirement.

Effect on Civil Liability:

Required Use of Child Safety Restraint Systems³:

Requirements:

A person, when transporting a child <4 years old, shall secure such child in a protective car seat. Title 9, §1212(c)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Administrative Offense: A fine of **\$10**. Title 9, §§1214 & 1871(72)
Note: The law does not appear to assign points for a violation of this requirement.

Effect on Civil Liability:

Required Use of Motorcycle Protective Headgear:

Requirements:

A person operating or riding on a motorcycle, motor-driven bicycle or motor scooter, shall wear a helmet. Title 9, §1146(a)

Sanctions for Failure to Use:

Administrative Offense: A fine of **\$10**. Title 9, §1871(65) Note: The law does not appear to assign points for a violation of this requirement.

¹**Exemptions.** The requirement to use a safety belt does not apply if (1) a person has a physical or medical condition that impedes the use of such a device or (2) a driver or a passenger of a public service vehicle where such vehicle has been given an exemption by the Public Service Commission due to the fact it is rendering service on short routes. Title 9, §1212(a) In addition, the requirement to use a safety belt only applies to drivers or passengers of motor vehicles that are required to have such belts. Title 9, §§1211 & 1212(a)

²This requirement appears to apply only to front seat vehicle occupants. Puerto Rico law requires that certain vehicles (generally those manufactured during and after the 1965 model year) have to be equipped with at least two (2) safety belts in the front seat. Title 9, §1211(a), (b) & (c) Drivers and passengers are only obligated to wear a safety belts pursuant to this requirement. Title 9, §1212(a)

³**Exemption.** A child who suffers from any type of disability which prevents them from traveling safely in a protective car seat is exempt from this requirement. Title 9, §1212(c)

PUERTO RICO

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person operating a motorcycle, motor-driven bicycle or motor scooter shall use either eyeglasses or spectacles or shall install a windshield on the vehicle. Title 9, §1146(a)

Sanctions for Failure to Use:

Administrative Offense: A fine of **\$10**. Title 9, §1871(65) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

It is illegal to ride a bicycle upon a public highway of high vehicular density without wearing a nationally approved protective helmet.⁴ Title 9, §1181(b)(11)

Sanctions for Failure to Use:

Misdemeanor: 1st offense-An imprisonment term of not more than **10 days** and/or a fine of not more than **\$100**. 2nd offense (within 1 year)-An imprisonment term of not more than **20 days** and/or a fine of not more than **\$200**. 3rd or subsequent offense (within 1 year)-An imprisonment term of not more than **6 months** and/or a fine of not more than **\$500**. Title 9, §1221(a) & (b) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

No person shall ride (1) upon the cargo or (2) in any other part of a vehicle except the cab. Title 9, §1373

Sanctions for a Violation:

Misdemeanor: Imprisonment for not more than **10 days** and/or a fine of not more than **\$15**.⁵ Title 9, §1752(a)

Exemptions:

This prohibition does not apply to public service vehicles (e.g., fire engines, garbage trucks, et al.) that belong either to municipal governments or to the Commonwealth of Puerto Rico. Title 9, §1373

⁴A parent or guardian may not authorize or knowingly permit a child to violate this requirement. Title 9, §1182 The sanctions for authorizing or permitting such a violation by a child are the same as noted for failure to use bicycle protective headgear.

⁵If a violation resulted in either an injury or a death, the following sanctions are imposed: Imprisonment for not more than **6 months** and/or a fine of not less than **\$100** nor more than **\$500**. In addition, the court may **suspend** the offender's driving privileges for not more than **2 years**. Title 9, §1374

JURISDICTION:
General Reference:

RHODE ISLAND
General Laws of Rhode Island

Required Use of Safety Belts¹:

Requirements:

- I. When a motor vehicle is in operation, the driver shall wear a safety belt and/or shoulder harness system.² §31-22-22(g)(1)
- II. When a motor vehicle is in operation, the driver shall ensure that all passengers ≥ 13 years old are properly wearing a safety belt.² §31-22-22(f)(1)

Secondary Enforcement. No motor vehicle may be stopped by a law enforcement officer for ONLY a violation of the requirements in either I or II above. §31-22-22(k)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Civil Violation³: For a violation of the requirements in either I or II above, there is a fine of \$50⁴. No record shall be maintained regarding a violation of the requirements in I and II. §§31-22-22(l), 31-27-13(a) & 31-41.1-4(a)

Effect on Civil Liability:

A violation of these requirements is not considered as negligence and the failure to wear a safety belt cannot be admitted into evidence in the trail of any civil action. §31-22-22(h)

Required Use of Child Safety Restraint Systems⁵:

Requirements:

- I. A driver, when transporting a child through age 6, <54 inches in height and <80 lbs. in a motor vehicle, shall secure such child in a Federally approved child passenger restraint system in the back seat. §31-22-22(a) See III under Footnote No. 1.
- II. A driver, when transporting a child though age 6, ≥54 inches in

¹Under separate provisions, safety belts shall be worn by all passengers riding in a child care vehicle. §31-22-11.6 This section does not provide a sanction for its violation. As such, a violation would be a misdemeanor under the general penalty provision of the vehicle code. The sanctions for such a misdemeanor are an imprisonment term of not more than 1 year and/or a fine of not more than \$500. §31-27-13(a) & (b)

Under separate statutory provisions, a person, when operating either a jitney, bus, private bus, school bus or trackless trolley coach, shall wear a safety belt. §31-23-41 A person, who violates this requirement, commits a misdemeanor and is also subject to an imprisonment term of not more than 1 year and/or a fine of not more than \$500. §§31-23-41 & 31-27-13(b)

Also, (1) a person, who is holding either an instructional permit or a "limited provisional license," must wear a safety belt when operating a motor vehicle and (2) any passengers riding with such a person must be restrained by either a safety belt or a child passenger restraint system. I.e., drivers and passengers must comply with the provisions of §31-22-22. §31-10-6

²**Exemptions.** This requirement does not apply in the following circumstances: (1) To persons riding in motor vehicles manufactured before July 1, 1966; (2) to persons who are unable to wear a safety belt for physical or medical reasons; (3) to persons riding in motor vehicles that are not required by Federal law to have safety belts; and, (4) to letter carriers of the U.S. Postal Service while performing official duties. §31-22-22(f)(2), (g)(2), (i) & (m)(2)

³**EMS Special Assessment.** In addition to any fine, an offender must be assessed \$1. §31-27-18 Note: These funds are deposited into the general State fund and, therefore, do not appear to be obligated for EMS functions.

⁴This fine is per the fine schedule listed in §31-41.1-4(a).

⁵Note: The exemptions listed in Footnote No. 2 do not apply to the provisions of the law related to child passenger protection.

RHODE ISLAND

Required Use of Child Restraint Systems: (continued)

Requirements: (continued)

height and ≥80 lbs., shall secure such child in the **back seat** of a motor vehicle in a Federally approved safety belt and/or shoulder harness. See III under Footnote No. 1.

IMPORTANT EXEMPTIONS. The requirements in I and II above do not apply if either (1) the vehicle is not equipped with a back seat or (2) "all back seating positions are being utilized by other children." §31-22-22(b)(1) Note: Due to an apparent legislative oversight, it appears, that children, who satisfy either of these two exemptions, are not required to be restrained.

III. A driver, when transporting a child between the ages of 7 through 12 in either the front or back seat of a motor vehicle, shall secure such child in a Federally approved safety belt and/or shoulder harness system. §31-22-22(m)(1)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Civil Violation³: A person, who violates the requirement in either I or II above, is subject to a fine of \$50⁶. Such a violation shall not be recorded on the person's driving record. Note: Even though a violation of the requirement in III above is a Civil Violation, neither §31-22-22 nor §31-41.1-4(a) provide for a sanction for its violation. §§31-22-22(c) & (d), 31-27-13(a) and 31-41.1-4(a)

Effect on Civil Liability:

A violation of these requirements shall not be considered as contributory or comparative negligence and such a violation is not admissible as evidence in the trial of any civil action. §31-22-22(b)(2) & (h)

Required Use of Motorcycle Protective Headgear:

Requirements:

I. When operating a motorcycle, motor scooter or a motor driven cycle, a person <21 years old shall wear a State approved helmet. §31-10.1-4
II. When operating a motorcycle, motor scooter or a motor driven cycle, any person (regardless of age), who has not been licensed for more than 1 year to operate such vehicles, shall wear a State approved helmet. §31-10.1-4

III. A passenger (regardless of age) riding on a motorcycle, motor scooter or motor driven cycle must wear a "properly fitting" State approved helmet. §31-10.1-6

Sanctions for Failure to Use:

Civil Violation³: For a violation of either I, II or III above, there is a fine of \$50.⁷ §§31-10.1-4, 31-27-13(a) & 31-41.1-4 Note: The law does not appear to assign points for a violation of this requirement.

⁶This sanction is listed in both §31-22-22 and the fine schedule provisions of §31-41.1-4(a).

⁷This fine is per the fine schedule listed in §31-41.1-4(a). However, §31-10.1-4 provides for only a fine of \$35 for a violation of the requirements noted in I and II.

Required Use of Motorcycle Eye Protection Device:

Requirements:

When operating a motorcycle, motor scooter or a motor driven cycle, a person (regardless of age) shall wear a State approved eye protection device. §31-10.1-4

Sanctions for Failure to Use:

Civil Violation³: A fine of \$50.⁸ §31-10.1-4, 31-27-13(a) & 31-41.1-4(a)

Required Use of Bicycle Protective Headgear⁹:

Requirements:

A person ≤15 years old shall wear a nationally approved bicycle helmet¹⁰ when either operating or riding as a passenger on a bicycle "on a public highway, bicycle path, shared use path, park and/or recreational area, school property or on any other public right-of-way." §31-19-2.1 A parent or guardian of any child shall not authorize or knowingly permit such child or ward to violate this requirement. §31-19-2

Sanctions for Failure to Use:

A violation of this requirement must be adjudicated administratively. §31-19-1 However, the provisions of neither §31-41.1-4(a) (the administrative fine schedule law), §31-19-1 nor §31-19-2.1 provide for a sanction. Furthermore, under §31-27-13(a), such an offense would probably be considered a civil violation for which only a fine sanction can be imposed but again no specific fine sanction is given. It should be noted that, even though no penalty is provided for in §31-41.1-4(a), this law usually provides a \$50 fine sanction for most traffic law violations.

Note: "In no event shall failure to wear a helmet be considered as contributory or comparative negligence, nor shall the failure to wear a helmet be admissible as evidence in the trial of any civil action." §31-19-2.1

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

⁸This fine is per the fine schedule listed in §31-41.1-4(a). However, §31-10.1-4 provides for only a fine of \$35 for a violation of this requirement.

⁹The bicycle helmet law also provides that persons ≤15 years old, who are "using or operating either a skateboard, rollerskates, scooter or inline skates on a public highway, bicycle path, shared use path, park and/or recreational area, school property or on any other public right-of-way" shall also wear an approved bicycle helmet. §31-19-2.1

¹⁰An approved bicycle helmet is one that meets the standards for such helmets established by either the Snell Memorial Foundation, the American Society for Testing and Materials (ASTM) or the U.S. Consumer Product Safety Commission (CPSC) §31-19-2.1

RHODE ISLAND

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

"No person shall operate an open motor truck or other similar vehicle while carrying or transporting any child under sixteen (16) years of age without securely fastening the child to prevent them from becoming loose or detached in any manner."¹¹ §31-25-10(f)

Sanctions for a Violation:

Civil Violation: A fine of \$50.¹² §§31-27-13(a) & 31-41.1-4(a)

Exemptions:

¹¹In addition, the safety belt usage law, because it covers all vehicle passengers, may indirectly establish such a prohibition.

¹²This fine is per the fine schedule listed in §31-41.1-4(a). However, §31-25-10(d) provides that for a violation of this section a person is subject to a fine of not more than \$100 for a first offense and to a fine of not less than \$100 nor more than \$500 for a subsequent offense.

JURISDICTION:
General Reference:

SOUTH CAROLINA
Code of Laws of South Carolina Annotated

Required Use of Safety Belts¹:

Requirements:

I. When operating a motor vehicle², the driver and every occupant must wear a safety belt. §56-5-6520

II. When operating a motor vehicle², the driver shall require that every passenger ≤17 years old wear either a safety belt or child restraint device.³ §56-5-6520

Limited Secondary Enforcement. A law enforcement officer must not stop a driver for a violation of these requirements in the absence of another violation of the motor vehicle laws.⁴ However, the following exceptions apply. An officer may issue a citation based either (1) on probable cause that a violation has occurred based on a "clear and unobstructed view" of drivers or passengers who are ≤17 years old; or, (2) on stops made at checkpoints established for the purpose of checking driver licenses or vehicle registrations. §56-5-6540(B)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

A Violation Does Not Constitute a Criminal Offense: A fine of not more than \$25. There are no court costs, assessments or surcharges for this offense. In addition, a person cannot be fined more than \$50 for any one incident where more than one violation occurred. A violation of these requirements cannot be included in either the State's motor vehicle or criminal records. §56-5-6540(A) No points may be assessed against a person's driving record for a violation of these requirements. §65-5-6550

Effect on Civil Liability:

A violation of these requirements does not constitute negligence per se or contributory negligence and is not admissible as evidence in a civil action. §56-5-6540(C)

¹**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) To persons who cannot use a safety belt because of physical or medical reasons; (2) to medical or rescue personnel attending to injured or sick individuals in an emergency vehicle; (3) to persons riding in school, church or day care buses; (4) to persons riding in public transportation vehicles except taxis; (5) to persons riding in vehicles in a parade; (6) to United States mail carriers; (7) to persons where a safety belt is not available because all seating positions with safety belts are already occupied; (8) to drivers who make frequent stops for pick up or delivery purposes; and, (9) to persons occupying the rear seat of a motor vehicle unless the vehicle is equipped with a shoulder harness in addition to the lap belt. §56-5-6530

²For purposes of the safety belt use law, the term "motor vehicle" is defined as "a passenger car, truck, van, or recreational vehicle required to be equipped with safety belts by Federal Motor Vehicle Motor Vehicle Safety Standard No. 208 (49 CFR 571.208), manufactured after July 1966." §56-5-6510 Under separate provisions of law, "passenger car" is defined as "[e]very motor vehicle except motorcycles and motor-driven cycles, designed for carrying ten passengers or less and used for the transportation of persons...." §56-5-361

³"However, a driver is not responsible for an occupant seventeen years of age or younger who has a driver's license, special restricted license, or beginner's permit and who is not wearing a seat belt; such occupant is in violation of this article...." §56-5-6520

⁴If the stop and safety belt law violation are based on another violation of the law, the safety belt law violation citation must also cite "the violation that initially caused the officer to effect the enforcement stop." §56-5-6540(C)

SOUTH CAROLINA

Required Use of Child Safety Restraint Systems⁵:

Requirements:

Under §56-5-6410, a person, when transporting a child ≤5 years old in a motor vehicle⁶ shall secure such child as follows:

- (1) If the child is <1 year old or weighs <20 lbs., they must be secured in a rear-facing child restraint system that meets Federal standards;
- (2) If the child is ≥1 but <6 years old and weighs ≥20 but <40 lbs, they must be secured in a forward-facing child safety seat that meets Federal standards;
- (3) If the child is ≥1 but <6 years old and weighs ≥40 but <80 lbs, they must be secured in a by a belt-positioning booster seat⁷;
- (4) If the child is ≥1 but <6 years old and weighs >80 lbs, they must be secured in an adult safety belt⁸; and,
- (5) If the child is <6 years old, they **cannot occupy the front seat** of a motor vehicle unless either (1) the motor vehicle does not have rear passenger seats or (2) all of the rear passenger seats are occupied by other children who are <6 years old.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor: A fine of not more than \$25. §§65-5-730, 65-5-6190 & 56-5-6450 Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

A violation of these requirements shall not constitute negligence per se or contributory negligence and shall not be admissible as evidence in any civil action. §56-5-6460

⁵**Exemptions.** These requirements do not apply in the following circumstances: (1) To children when all of the available seating positions with restraining devices are already occupied but priority must be given to children <6 years old according to their ages (§56-5-6420); to children who are being fed or who have physical impairment or medical problems that makes use of a child restraint system impractical (§56-5-6430); (3) to children riding in taxicabs, emergency vehicles when in official operation or vehicles operated by churches or day care centers (§56-5-6440); and, (4) to children riding in a school bus, public/commercial transportation vehicles (§56-5-6440).

⁶The term "motor vehicle" refers to a passenger car, pickup truck, van or recreational vehicle. §56-5-6410 The requirements under the child passenger restraint law apply only to motor vehicles that are equipped with safety belts. §56-5-6445 Under separate provisions of law, "passenger car" is defined as "[e]very motor vehicle except motorcycles and motor-driven cycles, designed for carrying ten passengers or less and used for the transportation of persons...." §56-5-361

⁷"The belt-positioning booster seat must be used with both a lap and shoulder belts. A booster seat must not be used with a lap belt alone." §56-5-6410(3)

⁸The law provides that "[i]f a child less than six years of age can sit with his back straight against the vehicle seat back cushion, with his knees bent over the vehicle's seat edge without slouching, the child may be seated in the regular back seat and secured by an adult safety belt." §56-5-6410(4)

Required Use of Motorcycle Protective Headgear⁹:

Requirements:

When operating or riding on a two-wheeled motorized vehicle (motorcycle), a person <21 years old shall wear a State approved helmet. §56-5-3660

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **30 days** and/or a fine of not more than **\$100**. §56-5-3700 Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

When operating or riding on a two-wheeled motorized vehicle (motorcycle), a person <21 years old shall wear State approved goggles or face shield. §56-5-3670 This requirement does not apply if the vehicle is equipped with a wind screen. §56-5-3680

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **30 days** and/or a fine of not more than **\$100**. §56-5-3700 Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None

Sanctions for a Violation:

Exemptions:

⁹For persons ≥21 years old, the failure to wear a helmet is not considered contributory negligence in a civil action. *Mayes v. Paxton*, 437 S.E.2d 66 (S.C. 1993)

SOUTH CAROLINA

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

SOUTH DAKOTA
South Dakota Codified Laws

Required Use of Safety Belts¹:

Requirements:

I. When a passenger vehicle² is in operation, the driver and all front seat passengers shall wear safety seat belts. §32-38-1

II. The driver of a passenger vehicle² shall secure front seat passengers ≥5 but <18 years old in a safety seat belt. §32-38-1

Secondary Enforcement. Enforcement of the above two requirements by law enforcement officers shall be accomplished as a secondary action. §32-38-5

III. When a passenger vehicle³ is in operation, a driver, who is ≥14 but <18 years old, shall wear a properly adjusted and fastened safety belt system. §32-37-1.2

IV. When a passenger vehicle³ is in operation, the driver shall assure that **ALL** passengers ≥5 but <18 years old are wearing a properly adjusted and fastened safety belt system. §32-37-1.1

V. When a passenger vehicle³ is in operation, **ALL** passengers ≥14 but <18 years old shall wear a properly adjusted and fastened safety belt system. §32-37-1.3

Note: The provisions of §§32-35-1, 32-27-1.1, 32-27-1.2 and 32-27-1.3 "overlap."

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Petty Offense: A "judgment" of **\$20**. §§23-1A-22, 32-38-5 and 1, 2 & 3 of Senate Bill 25 enacted in 2001 A violation of the requirements I & II are not a moving violation. §32-38-1 Note: The law does not appear to assign points for violations of the requirements in III, IV & V.

Effect on Civil Liability:

(A) A violation of the requirements in I & II above do not constitute contributory negligence, comparative negligence or assumption of the risk. And, except for criminal litigation for violations of these requirements, evidence of such violations may not be introduced as evidence in any civil litigation on the issue of injuries or on the issue of mitigation of damages. §32-38-4 & *Davis v. Knippling*, 576 N.W.2d 525 (S.D. 1998)

(B) A violation of the requirements in III, IV & V above are not considered as contributory negligence, comparative negligence or assumption of the risk and is not admissible as evidence in the trial of any civil action. §32-37-4

Exemptions. The requirement to wear a safety seat belt does not apply in the following circumstances: (1) To persons riding in a passenger vehicle manufactured before September 1, 1973; (2) to persons who for medical reasons are unable to wear a safety seat belt; (3) to persons who are riding in a vehicle that does not have to be equipped with safety seat belts under Federal law; (4) to rural carriers of the U.S. Postal Service while on official duties; and, (5) to persons delivering newspapers or periodicals on an assigned home delivery route. §32-38-3

²The term "passenger vehicle" means any self-propelled vehicle intended primary for highway use and includes passenger cars, station wagons, vans, taxicabs, emergency vehicles, motor homes, trucks and pickup trucks. This term does not include motorcycles, motor scooters, motor bicycles, motorized bicycles, passenger buses and school buses. §32-38-2

³Note: The term "passenger vehicle" is not defined in Chapter 32-37 (the child passenger protection law).

SOUTH DAKOTA

Required Use of Child Safety Restraint Systems⁴:

Requirements:

A driver, when transporting a child <5 years old in a passenger vehicle⁵, shall secure such child in a Federally approved child passenger restraint system. However, a child <5 years old and weighing ≥40 lbs. may be secured in a safety belt instead of a such a system. §32-37-1

Sanctions for Failure to Require the Use of Child Restraint Systems:

Petty Offense: A "judgment" of \$20. §§23-1A-22 & 32-37-1 Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

A violation of these requirements is not considered as contributory negligence, comparative negligence or assumption of the risk and is not admissible as evidence in the trial of any civil action. §32-37-4

Required Use of Motorcycle Protective Headgear⁶:

Requirements:

I. A person <18 years old may not operate or ride on a motorcycle unless they are wearing a Federally approved protective helmet. §32-20-4

II. A motorcycle operator (regardless of age) shall not allow a passenger <18 years old to ride a motorcycle unless such passenger is wearing a Federally approved protective helmet. §32-20-4

Note: These requirements do not apply to persons who are riding within an enclosed cab. §32-20-4.2

Sanctions for Failure to Use:

Class 2 Misdemeanor: An imprisonment term of not more than 30 days and/or a fine of not more than \$200. §§22-6-2(2) & 32-20-4 Note: The law does not appear to assign points for a violation of these requirements.

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person shall not operate a motorcycle unless either (1) they are wearing an eye protection device or (2) such vehicle is equipped with a windscreen. §32-20-4.1

Note: This requirement does not apply to persons who are riding within an enclosed cab. §32-20-4.2

Sanctions for Failure to Use:

Petty Offense: A "judgment" of \$20. §§23-1A-22 & 32-20-4.1 Note: The law does not appear to assign points for a violation of this requirement.

⁴**Exemptions.** This requirement does not apply to children who are riding in passenger cars manufactured before 1966 that have not been equipped with seat belts. §32-37-2

⁵Note: The term "passenger vehicle" is not defined in the child passenger protection law (Ch. 32-37).

⁶Failure to wear a helmet may be introduced into evidence at a civil action in order to mitigate damages. *Robbins v. Buntrock*, 550 N.W.2d 422 (S.D. 1996)

Required Use of Bicycle Protective Headgear:

Requirements: None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements: None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements: None

Sanctions for a Violation:

Exemptions:

SOUTH DAKOTA

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

TENNESSEE
Tennessee Code Annotated and Rules and Regulations of the State of
Tennessee (RRST)

Required Use of Safety Belts¹:

Requirements:

I. A person shall not drive a passenger motor vehicle² unless they and all front seat passengers ≥ 4 years old are restrained by a safety belt. §55-9-603(a)(1), (a)(2), (b)(1) **Important.** See Required Use of Child Safety Restraint Systems below.

II. Drivers 16 or 17 years old shall wear a safety belt when operating a motor vehicle in a "forward motion." §55-9-603(i)(1)

III. Motor vehicle passengers between the ages of 16 and 18 years old shall wear a safety belt when occupying **any** seating position. §55-9-603(i)(2)

Note: For passenger ≥ 4 through 15 years old, see Required Use of Child Safety Restraint Systems below.

Secondary Enforcement. For the requirement in I, no citation or warrant for an arrest shall be issued for a violation of this requirement unless the person who has been stopped by a law enforcement officer and has been issued a citation or arrest warrant for a separate violation of the law.³ §55-9-603(f)(1) Note: The law specifically provides that a law enforcement officer may issue a citation to but cannot arrest a person for an observed violation of the requirements in either II or III. §55-9-603(i)(3)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Class C Misdemeanor: An imprisonment term of not more than **30 days** and/or a fine of not more than **\$50**. §§40-35-111(e)(3) & 55-9-603(d)(1)

Alternative. In lieu of a court appearance, an offender may, for a 1st offense, pay a fine of **\$10** and, for a 2nd or subsequent offense, pay a fine of **\$20**. §55-9-603(d)(2)

Important. A driver cannot be fined for a violation of this requirement for the failure of a passenger > 16 years old to wear a safety belt. §55-9-606

Note: Neither court costs nor a litigation tax shall be imposed. §55-9-603(e) In addition, no points can be assigned to an offender's driving record for a violation of this requirement. §55-9-603(g)

¹**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) To persons who cannot wear a safety belt because of a physical disability; (2) a rural letter carrier of the U.S. Postal Service while performing official duties; (3) automobile dealership salespersons or mechanics who test drive 50 or more vehicles a day and where test drives are within 1 mile of the dealership; (4) utility workers while performing official duties; (5) water, gas and electric meter readers in the course of their employment; and, (5) persons who are in the process of delivering newspapers. §55-9-603(h)

²The term "passenger motor vehicle" means a vehicle having a gross vehicle weight $\leq 8,500$ lbs. and which is not used as a public livery conveyance for passengers. In addition, such term does not include a motor vehicle that does not have to be equipped with safety belts under Federal law. §55-9-603(c)

³A law enforcement officer observing a violation of this requirement shall only issue a citation for such violation. A law enforcement officer cannot take a person into custody solely for such a violation. §55-9-603(f)(2)

TENNESSEE

Required Use of Safety Belts: (continued)

Sanctions for Failure to Use or
Require the Use of Safety Belts: (continued)

A person holding an "intermediate driver license, who commits a 2nd offense, is ineligible to apply for unrestricted driving privileges for an addition 90 days from the date such person would have been eligible for such privileges. §55-50-311(f)(2)(A)

Effect on Civil Liability:

Generally, a violation of this requirement is not admissible into evidence in a civil action. §55-9-604 & *Cheatham v. Thurston*, 654F.Supp. 216 (S.D. Ohio 1986). This case applied Tennessee law §55-9-214 which was transferred to §55-9-604.

Required Use of Child Safety Restraint Systems⁴:

Requirements:

- I. A person, when transporting a child < 4 years old in a motor vehicle⁵, shall secure such child in a Federally approved child passenger restraint system. §55-9-602(a)(1)
- II. A person, when transporting a child who is between 4 and 8 years old and who weighs < 40 lbs. in a motor vehicle⁵, shall properly secure such child using a "separate carrier, integrated child seat or a belted positioning booster seat." §55-9-602(a)(2)
- III. A person, when transporting a child who is either (1) between 4 and 8 years old and who weighs ≥ 40 lbs. or (2) between 8 and 15 years old in a "passenger" motor vehicle⁵, shall secure such child in a "passenger" restraint system, including safety belts, meeting Federal standards. §55-9-602(g)(1)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Class C Misdemeanor: An imprisonment term of not more than 30 days and/or a fine of not more than \$50. §§40-35-111(e)(3) and 55-9-602(c)(1)

Alternatives. I. For a violation of I above, in addition to or in lieu of the above sanctions, an offender may be required to attend a class on

⁴**Exemptions.** I. The requirement to use a child passenger restraint system does not apply if the mother is nursing the child. §55-9-602(a) In addition, the requirement to use either a child passenger restraint system or safety belt for children ≥ 4 through 15 years old does not apply in the back seat if all seat belts or other passenger restraints are already occupied. §55-9-602(g)(5) II. Comment: Tennessee law provides, that before a motor vehicle can be sold in the State, it must be equipped with a safety belt. However, motor vehicles manufactured prior to the 1964 model year, public or livery conveyance passenger motor vehicles weighing ≤ 8,500 lbs. and any motor vehicle that is not required by Federal law to be equipped with safety belts are exempt from this requirement. §55-9-601 Although the law is not specific, there would appear to be an indirect exemption from the use of child passenger protection systems in motor vehicles that are not required to have safety belts by reason of the fact that safety belts are need in order to secure child passenger protection systems in place. The law does not require that motor vehicles be retrofitted with safety belts.

⁵The terms "motor vehicle" and "passenger motor vehicle" are not defined in the child passenger protection law. However, the term "motor vehicle" but not "passenger motor vehicle" is defined in the general definitions provision of the motor vehicle law. Under this provision, "motor vehicle" is defined as "every vehicle which is self-propelled excluding motorized bicycles and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails." §§55-8-101(30) & 55-9-101 and Ag. Op. 87-76, April 29, 1987, 1987 Tenn. AG LEXIS 121 The term "passenger motor vehicle" is defined in the safety belt use law, §55-9-603(c), but such definition only applies to this law. See Footnote No. 2

Required Use of Child Safety Restraint Systems:
(continued)

Sanctions for Failure to Require
the Use of Child Restraint Systems:(continued)

the hazards of not transporting children properly. §55-9-602(c)(2)
II. For a violation of II above, in lieu of a court appearance, an offender may a fine of \$20. Also, no court costs or litigation tax may be assessed against an offender. §55-9-602(g)
III. Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

Required Use of Motorcycle Protective Headgear:

Requirements:

A person who operates or rides as a passenger on a motorcycle or motorized bicycle must wear a State approved crash helmet.⁶ §55-9-302(a) This requirement does not apply to persons riding in an enclosed cab. §55-9-302(b)

Sanctions for Failure to Use:

Class C Misdemeanor: An imprisonment term of not more than 30 days and/or a fine of not more than \$50. §§40-35-111(e)(3) & 55-9-306
Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person who operates or rides as a passenger on a motor-driven cycle or motorized bicycle shall wear either safety goggles, face shields or glasses containing impact resistant lenses. This requirement does not apply if the vehicle is equipped with a windshield. §55-9-304

Sanctions for Failure to Use:

Class C Misdemeanor: An imprisonment term of not more than 30 days and/or a fine of not more than \$50. §§40-35-111(e)(3) & 55-9-306
Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear⁷:

Requirements:

I. A person <16 years old cannot operate or be a passenger on a bicycle unless they are wearing a protective cycle helmet. §55-52-105(1)
II. It is an offense for either a parent or legal guardian knowingly permit their child to violate the above requirement.

⁶A violation of this requirement will not be a bar to the recovery of damages based on contributory negligence grounds provided such violation did not contribute to the cause of the accident. *Brown v. Smith*, 604 S.W.2d 56 (Tenn.App. 1980)

⁷A person either who weighs <40 lbs. or who is <40 inches tall must be secured in a restraining seat when being transported on a bicycle. §55-52-105(2) Note: The sanctions for a violation of this requirement are the same as for a failure to use a bicycle safety helmet.

TENNESSEE

Required Use of Bicycle Protective Headgear: (continued)

Requirements: (continued)

Sanctions for Failure to Use:

- I. Violation: An adult who violates the above requirement is guilty of a violation and is liable for a fine \$2 plus court costs. §55-52-106(a)
- II. For a 1st violation, the law provides that only a warning citation may be issued. For either a 2nd or subsequent violation, a citation may be issued by no arrest can be made. §55-52-106
- III. Note: A violation of this requirement is not admissible as evidence in any civil action. §55-52-106(c)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle⁸:

Requirements:

- I. "[O]n the streets of any municipality, roads of any county, or the highways of this state," a person shall not transport a child <6 years old in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style. §55-8-189(a)
- II. On "any interstate defense highway or state highway," a person shall not transport a child ≥6 but <12 years old in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style. Note: A city or county may establish this same prohibition on its roads or highways. §55-8-189(b)(1) & (2)

Sanctions for a Violation:

Class C Misdemeanor: An imprisonment term of not more than 30 days and/or a fine of not more than \$50. §§40-35-111(e)(3) & 55-8-189(b)
Note: The law is not specific as to whether points can be assigned for a violation of this requirement. However, since this offense is codified under the rules of the road provisions of the vehicle code, an offender may be subject to a 3 point assessment against their driving record under the miscellaneous point assessment provisions of the point system regulations. RRST Ch. 1340-1-40.03

Exemptions:

- I. This requirement does not apply if the child is being transported in the bed of such a vehicle as part of an organized parade, possession or other ceremonial event and when the vehicle is not traveling >20 MPH. §55-8-189(c)
- II. This requirement does not apply if the child is being transported in the bed of such vehicle when it "is involved in agricultural activities." §55-8-189(d)

⁸"The General Assembly hereby strongly urges the Department of Safety to take all necessary and prudent measures to alert persons of the dangers of minor children riding in the back of pickup trucks. The Department of Safety is urged to use public service announcements, advertising, public meetings and any other means available to inform the public of the risks to minors from riding in the back of pickup trucks." §1 of Public Chapter No. 888 (1998)

JURISDICTION:
General Reference:

TEXAS
Vernon's Texas Transportation Code (Tran. Code)

Required Use of Safety Belts¹:

Requirements:

I. When a passenger vehicle² is being operated, anyone ≥ 15 years old, who is riding in the front seat and who is occupying a seat that is equipped with a safety belt, must wear such belt. Tran. Code §545.413(a)

II. A person cannot operate a passenger vehicle² or light truck equipped with a safety belts unless the all of the passengers, (1) who are ≥ 5 but < 17 years old or (2) who are < 5 years and at least 36 inches in height, are secured by such belts. However, this requirement only applies if such passengers are occupying a seat that is equipped with a safety belt. Tran. Code §545.413(b)

Sanctions for Failure to Use or
Require the Use of Safety Belts³:

Misdemeanor: I. A violation of the requirement in I above, a fine of not less than \$25 nor more than \$50.⁴ Tran. Code §545.413(d)

II. A violation of the requirement in II above, a fine of not less than \$100 nor more than \$200.⁴ However, the court may defer proceedings and require an offender to complete a special course concerning child passenger safety. This course is in lieu of requiring them to complete a "driving safety course." Tran. Code §545.413(d) & (i)

Effect on Civil Liability:

Evidence of non-use of a safety belt is not admissible in a civil trial. Tran. Code §545.413(g)

¹**Exemptions.** The requirements to use a safety belt do not apply in the following circumstances: (1) To person who are unable to use a safety belt for physical or medical reasons; (2) to persons employed by the U.S. Postal Service while performing official duties; (3) to persons who are in the process of delivering newspapers from a vehicle; (4) to persons employed by a either public or private utility and who are engaged in reading meters or performing other duties that require that they frequently enter and exit a vehicle; and, (5) to persons who are operating commercial vehicles that are registered as farm vehicles and that the weigh $< 48,000$ lbs. Tran. Code §545.413(e)

Constitutionality. I. The State's previous safety belt use law, Tex. Rev. Civ. Stat. Ann. Art. 6701d, §107C, was held to be constitutional. *Richards v. State*, 743 S.W.2d 747 (Tex.App. — Houston [1 Dist.] 1987) (Discretionary review denied, 757 S.W.2d 723 (Tex. Crim.App. 1988) (Appeal dismissed by the U.S. Supreme Court for a want of a substantial federal question. 489 U.S. 1002, 109 S.Ct. 1105, 103 L.Ed.2d 170 (1989)) II. The U.S. Supreme Court has held that it is constitutional for a law enforcement officer to make an arrest without a warrant for a fine only minor criminal offense such as a violation of Texas' safety belt use law which is a misdemeanor offense with only a fine sanction. *Atwater v. City of Lago Vista*, 121 S.Ct. 1536, 149 L.Ed.2d 549, ____ U.S. ____ (2001)

²"Passenger vehicle" means a passenger car, light truck, sport utility vehicle, truck or truck tractor. Tran. Code §§545.412(f) & 545.413(h)

³**Deferred Disposition.** Persons charged with traffic offenses may be allowed to participate in a deferred disposition program. Under this program, an offender must plead guilty or no contest to the offense and complete a "driving safety course." The court defers imposition of judgment for 180 days and dismiss the charge when the course has been completed. Code of Criminal Procedure, Art. 45.541

⁴The law is not specific as to whether there is a licensing sanction for this offense. However, it may be possible for the State to either suspend or revoke a person's driving privileges based on habitual violations of the traffic law which could include this offense. Tran. Code §521.294

TEXAS

Required Use of Child Safety Restraint Systems²:

Requirements:

A person cannot operate a passenger vehicle², when transporting a child <4 years old or <36 inches in height, unless such child is secured in a Federally approved child passenger safety seat system. Tran. Code §545.412(a)(1) & (f)

Sanctions for Failure to Require the Use of Child Restraint Systems³:

Misdemeanor: A fine of not less than \$100 nor more than \$200.⁴ However, the court may defer proceedings and require an offender to complete a special course concerning child passenger safety. This course is in lieu of requiring them to complete a "driving safety course." Tran. Code §545.412(b) & (g)

Effect on Civil Liability:

Evidence of non-use of a child passenger safety seat system is not admissible in a civil trial.⁶ Tran. Code §545.412(d)

Required Use of Motorcycle Protective Headgear:

Requirements:

A person, who operates or rides as a passenger on a motorcycle⁷, shall wear State approved protective headgear. Tran. Code §661.003(a) & (c)

Exception. A person, who is ≥21 years old, may apply for an "exception" from this requirement provided they either (1) have successfully completed a motorcycle operator training and safety course or (2) are covered by a health insurance plan that provides the person with at least \$10,000 in medical benefits which will cover the costs of any injury sustained while operating or riding on a motorcycle.⁸ Tran. Code §661.003(c)

Sanctions for Failure to Use³:

Misdemeanor: A fine of not less than \$10 nor more than \$50.⁴ Tran. Code §661.003(h)

Note: In a Federal case, the court held that there may be a common law duty under Texas law to wear protective headgear. *Kennon v. Slipstreamer, Inc.*, 794 F.2d 1067 (5th Cir. 1986)

Exemptions. These requirements do not apply in the following circumstances: (1) To children being transported in passenger for hire vehicles; and, (2) to children being transported in a vehicle in which all seating position equipped with child passenger safety seat systems or safety belts are occupied. In addition, the law provides that it is a defense to a prosecution for a violation of this requirement that the child was being transported in a vehicle either in an emergency or for law enforcement purposes. Tran. Code §545.412(c) & (e)

⁶However, evidence of non-use can be used in certain proceeding under the Family Code. §126, Ch. 751, Acts of 1995

⁷The term "motorcycle" means a self propelled motor vehicle with not more than 3 wheels and which may have a saddle for rider use. The term does not include a tractor or three-wheeled vehicle that is equipped with a cab, seat and seat belt and is designed to contain the cab operator. Tran. Code §661.001(1)

⁸Motorcycle owners, who qualify for this exception, may apply to the State Department of Public Health for a special license plate sticker which indicates they satisfy the requirements for such an exception. In addition, the law presumes that either operators or passengers, who are riding on motorcycles displaying such stickers, have complied with these requirements. Tran. Code §661.003(d) & (g)

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

When operating either an open-bed pickup truck or an open flatbed truck or when drawing an open flatbed trailer, a driver shall not transport a passenger < 18 years old in the bed of such truck or trailer. Tran. Code §545.414(a)

Sanctions for a Violation³:

Misdemeanor: A fine of not less than **\$25** nor more than **\$200**.⁴ Tran. Code §545.414(b)

Exemptions:

The requirement does not apply if a person was either (1) operating such vehicle either in parade, emergency or authorized hayride, (2) operating a vehicle on a beach, (3) driving such vehicle either on a farm-to-market road, ranch-to-market road, or county road outside of municipality, or (4) "operating a vehicle that is the only vehicle owned or operated by the members of a household." Tran. Code §545.414(c)

Note: "Compliance or noncompliance" with this requirement "is not admissible" as evidence in a "civil trial." Tran. Code §545.414(d)

⁹"Household" is defined to mean "a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other." Family Code §71.005 & Tran. Code §545.414(e)

TEXAS

JURISDICTION:
General Reference:

UTAH
Utah Code Annotated

Required Use of Safety Belts¹:

Requirements:

I. When a motor vehicle² is in operation, the driver shall wear a safety belt. §41-6-182(1)(a)

II. When a motor vehicle² is in operation, the driver shall secure all passengers ≥ 5 but < 16 years old in either an appropriate child restraint device³ or safety belt. §41-6-182(1)(c) See Required Use of Child Safety Restraint Systems below.

III. When a motor vehicle² is in operation, a passenger ≥ 16 years shall wear a safety belt. §41-6-182(2)

Secondary Enforcement. Law enforcement officers shall only enforce requirements I and III above as a secondary action when either the driver or passenger ≥ 19 years old has been detained for a suspected violation of some other provision of the motor vehicle laws or for another offense. §41-6-182(5)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Infraction: A fine of not more than **\$45**. §41-6-185(1)(a) Note: The fine may be reduced to **\$15** if the offender completes a 2 hour course on the benefits of using safety belts. §41-6-185(1)(b) No points may be assessed against any person for a violation of these requirements. §41-6-185(2)

Effect on Civil Liability:

Failure to wear a safety belt does not constitute contributory or comparative negligence. Evidence of such a failure may not be introduced as evidence in any civil litigation on the issues of negligence, injuries or the mitigation of damages. §41-6-186

Required Use of Child Safety Restraint Systems:

Requirements:

When a motor vehicle² is in operation, the driver shall secure all passengers < 5 years old in a child restraint device³. §41-6-182(1)(b)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Infraction: A fine of not more than **\$45**. §41-6-185(1)(a) Note: The fine may be reduced to **\$15** if the offender completes a 2 hour course on the benefits of using a child restraint device. §41-6-185(1)(b) No points may be assessed against any person for a violation of these requirements. §41-6-185(2)

¹**Exemptions.** This requirement does not apply in the following circumstances: (1) To persons driving or riding in motor vehicles manufactured before July 1, 1966; (2) to persons who for physical or medical reasons are unable to wear a safety belt; (3) to persons riding in either a motor vehicle or a seating position within a motor vehicle that is not required to be equipped with a safety belt system under Federal law; and, (4) to persons where all of the seating positions are occupied by other passengers. §41-6-183

²The term "motor vehicle" "means a self-propelled vehicle intended primarily for use and operation on the highways." The term does not include vehicles that are not equipped with safety belts by the manufacturer. §§41-1a-102(33) & 41-6-181.5(2)

³"Child Restraint Device" means a child restraint device approved by the Commissioner of the Department of Public Safety. §41-6-181.5(1) Note: This could include the approval of booster seats for young children as well as child restraint devices for infants.

UTAH

Required Use of Child Safety Restraint Systems: (continued)

Effect on Civil Liability:

Failure to use a child restraint device does not constitute contributory or comparative negligence. Evidence of such a failure may not be introduced as evidence in any civil litigation on the issues of negligence, injuries or the mitigation of damages. §41-6-186

Required Use of Motorcycle Protective Headgear:

Requirements:

I. A person <18 years old may not operate or ride on a motorcycle or motor-driven cycle on a highway unless they wear State approved protective headgear. §41-6-107.8(1) This requirement does not apply if the operator or rider is within an enclosed cab. §41-6-107.8(2)
II. For off-highway vehicles, a person <18 years old⁴, who is operating or riding on either a motorcycle, snowmobile, or a Type I all-terrain vehicle, shall wear a protective headgear.⁵ §41-22-10.8(1)(b)

Sanctions for Failure to Use:

I. A violation of I above is an Infraction with a fine of not more than \$750. §§41-6-12(2), 76-3-205 & 76-3-301(1)(e)
II. A violation of II above is an Infraction with a fine sanction of not more than \$50. §41-22-10.8(3)
Note: The law does not appear to assign points for a violation of these requirements.

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

⁴The requirement to wear protective headgear also applies to operators or riders regardless of age who are participating in competitive events on lands or highways designated as open for off-highway vehicle use. §41-22-10.8(1)(a)

⁵The requirement to wear protective headgear does not apply to operators or passengers of off-highway implements of husbandry when operated according to §41-22-5.5(3) to (5). §41-22-10.8(2)

Prohibition Against Riding in Unsecured
Portion of Vehicle⁶:

Requirements:

- I. No person shall ride upon any portion of any vehicle that is not designed or intended for passenger use. §41-6-108
- II. No driver shall knowingly allow a person to ride upon any portion of any vehicle that is not designed or intended for passenger use. §41-6-108

Sanctions for a Violation:

Infraction: A fine of not more than **\$750**. §§41-6-12(2), 76-3-205 & 76-3-301(1)(e) Note: The law does not appear to assign points for a violation of these requirements.

Exemptions:

This prohibition does not apply either (1) if the vehicle is not being driven upon a highway, (2) if employees riding upon a vehicle are engaged in the necessary discharge of their duties or (3) if persons are riding in a vehicle space that is intended for any load. §41-6-108

⁶In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

UTAH

JURISDICTION:
General Reference:

VERMONT
Vermont Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

A person shall not operate a motor vehicle² unless all persons (including the operator), who are occupying a seating position with safety belts, are wearing such belts. Title 23, §1259(a) See Required Use of Child Safety Restraints below.

Secondary Enforcement. A law enforcement officer can only enforce this requirement if a vehicle operator has been detained for another traffic law violation. An offender is not subject to a fine for a violation of this requirement unless they are also fined for the primary traffic law offense. Title 23, §1259(f)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Traffic Offense: A vehicle operator is subject to a "penalty" of \$10. Title 23, §§1259(a) & 2201 No points are assigned for a violation of this requirement.

Effect on Civil Liability:

A failure to comply with this requirement is not admissible as evidence in any civil proceeding. Title 23, §1259(d) A failure to comply with this requirement does not constitute negligence or contributory negligence in any civil proceeding or criminal action. However, such a failure is not a bar to the prosecution of a criminal offense. Title 23, §1259(e)

Required Use of Child Safety Restraint Systems³:

Requirements:

- I. A person, when transporting a child <5 years old in a motor vehicle, except a Type I school bus⁴, shall secure such child in a Federally approved child restraint system. Title 23, §1258(a)
- II. A person, when transporting a child ≥5 but <13 years old in a

¹**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) To persons who have a physical condition that would make the wearing of a safety belt inappropriate; (2) to rural mail carriers of the U.S. Postal Service while performing official duties; (3) to persons who are making frequent stops for the purpose of delivering property and where the vehicle is operating ≤15 MPH; (4) to persons performing official duties in an emergency vehicle; (5) to persons operating any implements of husbandry; and, (6) to persons occupying either a bus or a taxi. Title 23, §1259(b)

²The requirement of use a safety belt only applies to persons who are occupying a seating position which has been manufactured with a Federally approved safety belt system. Title 23, §1259(a) Note: Indirectly, the safety belt use law only applies to motor vehicles that are required to have safety belts under Federal law.

³**Exemptions.** These requirements do not apply in the following circumstances: (1) To children being transported as passengers for hire (except motor vehicles owned by day care facilities); (2) to children who are riding in motor vehicles that were not manufactured with safety belts; (3) to children who have a physical condition that prevents the use of either a child passenger restraint system or a safety belt; (4) to children, where the total number of safety belts available are in use, provided that children <5 years old are secured in a child passenger restraint system and all safety belts are in use. Title 23, §1258(c)

⁴A "school bus" is defined as a motor vehicle, with a manufacture's rated seating capacity ≥ 11 passengers, including the operator, used to transport children to or from school or school activities. Excluded from this definition are common carriers and certain private vehicles. A Type I school bus means a school bus designed to transport >15 passengers including the operator. And, a Type II school bus means a school bus designed to transport >10 and <16 passengers, including the operator. Title 23, §4(34)(A), (B) & (C)

VERMONT

Required Use of Child Safety Restraint Systems: (continued)

Requirements: (continued)

motor vehicle, except a school bus⁴, shall secure such child in a safety belt. Title 23, §1258(b)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Traffic Offense: A fine of not more than \$25. Title 23, §§1258(d) & 2201 No points are assigned for a violation of these requirements.

Effect on Civil Liability:

Required Use of Motorcycle Protective Headgear⁵:

Requirements:

No person shall operate or ride on a motorcycle unless they wear State approved protective headgear. Title 23, §1256

Sanctions for Failure to Use:

Traffic Violation (Not a Crime-Treated as a Civil Action): A "penalty" of not more than \$1,000.⁶ Title 23, §2302(b) & (c) Two (2) points are assessed against a person's driving record for a violation of this requirement. Title 23, §2502(a)(BBB)

Required Use of Motorcycle Eye Protection Device:

Requirements:

If a motorcycle is not equipped with a windshield or screen, the operator shall wear either eye glasses, goggles or a face shield. Title 23, §1257

Sanctions for Failure to Use:

Traffic Violation (Not a Crime-Treated as a Civil Action): A "penalty" of not more than \$1,000.⁶ Title 23, §2302(b) & (c) Two (2) points are assessed against a person's driving record for a violation of this requirement. Title 23, §2502(a)(CCC)

Required Use of Bicycle Protective Headgear:

Requirements:

None

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None⁷

⁵Does not apply to fully enclosed 3 wheeled vehicles that weight <1,500 lbs. and are powered by electricity. Title 23, §4(18)

⁶The "penalty" for this offense is normally determined via a waiver schedule established by the Judicial Bureau. Title 4, §1102(d)

⁷Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for children <5 years old via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

VIRGINIA
Code of Virginia Annotated and Virginia Administrative Code (VAC)

Required Use of Safety Belts¹:

Requirements:

When a motor vehicle² is in motion, each person ≥ 16 years old, who is occupying the front seat, shall wear a safety belt.³ §46.2-1094(A)

Secondary Enforcement. No citation for a violation of this requirement shall be issued unless a law enforcement officer has cause to stop or arrest the driver for a violation of the State's law or a local ordinance related to motor vehicles. §46.2-1094(F)

Note: City governments with a population $> 66,000$ but $\leq 67,000$, have the authority to enact ordinances requiring safety belt usage which are not inconsistent with State law. The sanction for a violation of such an ordinance cannot exceed \$25. §46.2-1094(G)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Civil Penalty: A penalty of \$25 and no court costs. No points may be assigned to a person's driving record. §46.2-1094(C)

Effect on Civil Liability:

A violation of these requirements (1) shall not constitute negligence, (2) shall not be considered in the mitigation of damages of whatever nature or (3) shall neither be admitted into evidence nor commented upon by counsel in a civil action. §46.2-1094(D)

Required Use of Child Safety Restraint Systems⁴:

Requirements:

I. A person, when transporting a child < 4 years old in a motor

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons who have a physical or medical condition that makes wearing a safety belt impractical; (2) to law enforcement officers who are transporting a person in custody where the wearing of a safety belt would be impractical; (3) to rural mail carriers of the U.S. Postal Service while performing official duties; (4) to persons performing the duties of a rural newspaper route carrier, newspaper bundle hauler or newspaper rack carrier; (5) to taxicab drivers; (6) to persons required to make frequent stops while operating commercial or public vehicles; (7) to utility meter readers; and, (8) to law enforcement personnel who are enforcing motor vehicle parking laws. §46.2-1094(B)

²Generally, the safety belt use requirement applies to persons occupying "passenger cars" that are equipped with or required by law to be equipped with safety belts. §§46.2-1092 & 46.2-1094(A) & (B) The term "passenger car" means every motor vehicle other than a motorcycle designed and used primarily for the transporting of no more than 10 persons including the driver. §46.2-100

³**School Bus.** A person must wear a safety belt when operating a school bus. A violation of this requirement is a Class 3 Misdemeanor. §46.2-1091 The sanction for a Class 3 Misdemeanor is a fine of not more than \$500. §18.2-11(c) In addition, a school bus operator, who violates this requirement, has 3 points assessed against their driving record. §46.2-492 and 24 VAC 20-30-60

⁴**Exemptions.** There are several provisions of the child restraint law that provided for exemptions. I. Under §46.2-1095(F), such requirements do not apply to taxicabs, school buses, executive sedans, limousines or the rear cargo area of vehicles other than pickup trucks. III. Under §46.2-1099, these requirement do not apply in the following circumstances: (1) To children who are being transported in a vehicle having an interior design which makes the use of a child restraint device impractical; and, (2) to children being transported by public transportation, bus, school bus or farm vehicle. III. And, under §46.2-1096, these requirements do not apply to children who for weight, physical unfitness or other medical reasons cannot practically use a child restraint system.

VIRGINIA

Required Use of Child Safety Restraint Systems:
(continued)

Requirements: (continued)

vehicle⁵, must secure such a child in a Federally approved child restraint device. §46.2-1095(A)

II. As an alternative to using a child restraint device, a person, when transporting a child between 3 and 4 years old, may secure such child in a seat belt. The size and weight of the child must make the use of a seat belt practical and the use of a child restraint device impractical. §46.2-1100

III. A person, when transporting a child ≥ 4 but < 16 years old, shall ensure that such child is secured in a safety belt. §46.2-1095(B)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

I. For violations of I or II above a Civil Penalty of \$50. §46.2-1098 (¶1) Three (3) points are assessed against a person's driving record for a violation of these requirements. §46.2-492

II. For a violation of III above a Civil Penalty of \$25 with no court costs. No points shall be assessed for a violation of this requirement. §46.2-1095(D)

Effect on Civil Liability⁷:

I. A violation of these requirements shall not constitute negligence per se. Such violations shall not constitute a defense for personal injuries to a child for injuries sustained in a motor vehicle accident. §46.2-1098 (¶2)

II. Under separate provisions of law, a violation of these requirements is likewise not considered to be negligence per se. In addition, a violation is not to be considered in mitigation of damages, admitted into evidence or commented upon by counsel in any civil action. §46.2-1095(C)

⁵This requirement only applies to motor vehicles manufactured after January 1, 1968. §46.2-1095 Note: The child passenger protection law is not clear but it appears to apply only to vehicles that are required by law to be manufactured with a safety belts.

⁶Persons under 18 years old, who receive points, are subject to the following sanctions. For 1st violation where points have been assigned, the person shall be directed to attend a driver improvement clinic. For a 2nd violation where points have been assigned, the person shall have their driving privileges suspended for 90 days. And, for a 3rd violation where points have been assigned, the person shall have their driving privileges revoked for either 1 year or until they reach 18 years old whichever is the longer revocation period. §46.2-334.01(1)(a), (2) & (3)

⁷A person, who "in good faith without compensation installs, or inspects the installation of, a child restraint device," is not liable for any damages caused by any act or omission related to such activity provided such person has obtained the appropriate training for the installation of child restraint systems via standards established by the National Highway Traffic Safety Administration. §8.01-226.5

Required Use of Motorcycle Protective Headgear⁸:

Requirements:

When operating or riding on a motorcycle⁹, a person shall wear a State approved protective helmet. Important. This requirement does not apply if the motorcycle is being driven in an authorized parade at a speed ≤15 MPH. §46.2-910(A)

Sanctions for Failure to Use:

Traffic Infraction: A fine of not more than \$200. §46.2-113

Note: Failure to wear a protective helmet shall not constitute negligence per se in any civil proceeding. §46.2-910(A)

Required Use of Motorcycle Eye Protection Device:

Requirements:

When operating a motorcycle⁸, a person shall wear a State approved face shield, safety glasses or goggles. This requirement does not apply if the motorcycle is equipped with windshield. §46.2-910(A)

Sanctions for Failure to Use:

Traffic Infraction: A fine of not more than \$200. §46.2-113

Note: Failure to wear a face shield, safety glasses or goggles shall not constitute negligence per se in any civil proceeding. §46.2-910(A)

Required Use of Bicycle Protective Headgear:

Requirements:

A county, city or town may enact an ordinance providing that every person ≤14 years old shall wear a nationally approved protective helmet when riding or being carried on a bicycle. §46.2-906.1 (¶1)

Sanctions for Failure to Use:

A violation of such an ordinance is punishable by a fine of \$25. §46.2-906.1 (¶2)

Note: A violation of this requirements (1) shall not constitute negligence, (2) shall not constitute assumption of risk, (3) shall not be considered in the mitigation of damages of whatever nature and (4) shall neither be admitted into evidence nor commented upon by counsel in a civil action. §46.2-906.1 (¶3)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

⁸The requirement to wear a protective helmet does not apply to operators or passengers of (1) motorcycles with wheels of ≤8 inches in diameter or (2) three-wheeled motorcycles which have nonremovable roofs, windshields and enclosed bodies. §46.2-910(A)

⁹The term "motorcycle" does not include a moped. However, the term "moped" is defined to include a motorcycle with an engine displacement of ≤50 cubic inches and a maximum speed of <30 MPH. §46.2-100

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Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

No person <16 years old shall be transported in the rear cargo area of any pickup truck on the State's highways. §46.2-1156.1

Sanctions for a Violation:

Traffic Infraction: A fine of not more than \$200. §46.2-113

Exemptions:

This prohibition does not apply to persons who are riding in such cargo area (1) as part of an authorized parade or (2) "across a highway from one field or parcel of land to another field or parcel of land in connection with farming operations." §46.2-1156.1

JURISDICTION:

General Reference:

VIRGIN ISLANDS

Virgin Islands Code (Updated through May 1, 2000)

Required Use of Safety Belts¹:

Requirements:

A person shall not operate a motor vehicle² unless they and all front seat passengers are secured by a safety belt. Title 20, §466(a)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: 1st offense-A fine of not less than \$25 nor more than \$100. 2nd offense-A fine of not less than \$50 nor more than \$200. 3rd or subsequent offense (within 3 years)-A fine of not less than \$100 nor more than \$500 and driving privileges may be suspended for not more than 1 year. Title 14, §§1 & 2(b)(2) and Title 20, §466(c)
In addition, for either a 1st or subsequent offense, 3 points are assigned to a person's driving record. Title 20, §§801 & 803

Effect on Civil Liability:

Required Use of Child Safety Restraint Systems³:

Requirements:

Before operating a motor vehicle², a person shall secure a child <5 years old in a Federally approved child safety seat. As an alternative, children 3 through 5 years old may be secured by a safety belt. Title 20, §466(a)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Misdemeanor: 1st offense-A fine of not less than \$25 nor more than \$100. 2nd offense-A fine of not less than \$50 nor more than \$200. 3rd or subsequent offense (within 3 years)-A fine of not less than \$100 nor more than \$500 and driving privileges may be suspended for not more than 1 year. Title 14, §§1 & 2(b)(2) and Title 20, §466(c)
In addition, for either a 1st or subsequent offense, 6 points are assigned to a person's driving record. Title 20, §§801 & 803

Effect on Civil Liability:

Required Use of Motorcycle Protective Headgear:

Requirements:

A person, when operating or riding on a motorcycle⁴, shall wear a Territory approved protective helmet. Title 20, §465(e)

¹**Exemption.** The requirement to wear a safety belt does not apply to persons who have a physical disability that would prevent appropriate use of this device. Title 20, §466(d)

²The term "motor vehicle" includes all motor vehicles except those manufactured before January 1, 1978, buses, authorized emergency vehicles and trucks with a maximum gross weight ≥18,000 lbs. Title 20, §466(b)

³**Exemption.** The requirement to secure a child either in a child safety seat or safety belt does not apply to children who have a physical disability that would prevent appropriate use of such safety seat or safety belt. In addition, this requirement does not apply to operators of automobiles for hire when such vehicles are being operated within designated city limits. Title 20, §466(d)

⁴The term "motorcycle" means a motor vehicle, including motor scooters and mopeds, having a seat or saddle for the use of the rider and having not more than three wheels. However, the term does not include tractors. Title 20, §465(a)

VIRGIN ISLANDS

Required Use of Motorcycle Protective Headgear: (continued)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **6 months** and/or a fine of not more than **\$200**.⁵ Title 14, §§1 & 2(b)(2) and Title 20, §544(f)
In addition, 2 points are assigned to a person's driving record. Title 20, §§801 & 803

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None⁶

Sanctions for a Violation:

Exemptions:

⁵The law is not specific but the court appears to have the authority to revoke a person's license for this offense. A person, who has been convicted of a traffic offense, may be subject to court imposed licensing action. The license revocation period is at the discretion of the court. Title 20, §546

⁶Even though there is no statutory authority prohibiting this activity, such a prohibition may have been established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

WASHINGTON
Revised Code of Washington Annotated and Washington Administrative Code (WAC)

Required Use of Safety Belts¹:

Requirements:

- I. A person ≥ 16 years old, who is either operating or riding in a motor vehicle², shall wear a safety belt. §46.61.688(3)
II. No person shall operate a motor vehicle² unless all child passengers < 16 years old are either wearing a safety belt or using some other approved child restraint device. §46.61.688(4)

Secondary Enforcement. Enforcement of these requirements may only be accomplished as a secondary action when a driver has been detained for a suspected violation of State or local motor vehicle laws or some other offense. However, if a child < 16 years old must be secured in an approved child restraint device, enforcement is primary. §46.61.688(7)
See Required Use of Child Restraint Systems below.

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Traffic Infraction: Not more than \$250.³ §§46.61.688(5) & 46.63-110(1) Note: A violation of these requirements shall be recorded on a driver's record. However, such information shall not be available to insurance companies or employers. §46.61.688(5)

Effect on Civil Liability:

Failure to comply with these requirements does not constitute negligence. In addition, failure to wear a safety belt cannot be admitted into evidence as negligence in any civil action. §46.61.688(6) & *Patterson v. Horton*, 929 P.2d 1125 (Wash.App. 2 Div. 1997)

¹**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) To persons, who are operating or riding in motor vehicles that are not required to be equipped with safety belts under Federal law; (2) to persons, for whom no safety belts are available, when all designated seating positions are occupied; (3) to persons, who for physical or medical reasons, are unable to wear a safety belt; and, (4) to persons, who the State has exempted via regulation and who are operators or occupants of farm vehicles, construction equipment and vehicles that are required to make frequent stops. §46.61.688(2), (8) & (9)

²The term "motor vehicle" means either (1) a bus designed to carry > 10 persons, (2) a "multipurpose passenger vehicle" designed to carry ≤ 10 persons, (3) a passenger car and (4) a truck. However, the term does not include either (1) motorcycles or (2) trailers designed to carry ≤ 10 persons or to transport property. §46.61.688(1) **Important.** The safety belt use law only applies to motor vehicles that are required to meet the manual seat belt standards under Federal law (49 CFR 571.208).

³**Fine Schedule.** The State supreme court is required to establish a monetary penalty schedule of traffic infractions. §46.63.110. Under this law, a fine of \$35 has been established for this offense. Washington Court Rules 6.2(b) & (d)

Licensing Action. Although the law does not provide a specific licensing sanction for this offense, the State may suspend a person's licensing for not more than 1 year based upon an offender's frequent conviction for traffic infractions. §§46.20.291(3) & 46.20.311(1) A person is considered a frequent violator of the traffic laws if they either commit 4 traffic offenses with 12 months or 5 such offenses within 24 months. WAC 308-104-035

Public Safety and Education Assessment. In addition to any other fine, an offender is subject to two public safety and education assessments. The first assessment is equal to 60% of any fine imposed. The second is equal to 50% of the first. §3.62.090(1) & (2)

Other Monetary Penalties. An offender is also subject to a \$5 fee which is used to support the emergency medical services and trauma case system. §46.63.110(6)

WASHINGTON

Required Use of Child Safety Restraint Systems⁴:

Requirements:

Requirements Effective Until July 1, 2002.

I. A person, when transporting a child <3 years old in a motor vehicle⁶, shall secure such child in a Federally approved child restraint system.

§46.61.687(1)(a)

II. A person, when transporting a child ≥3 but <10 years old in a motor vehicle⁶, shall secure such child either in a Federally approved child restraint system or in a safety belt. §46.61.687(1)(b)

Requirements Effective July 1, 2002.

I⁵. A person, when transporting a child, who is <6 years old and/or who weighs <60 lbs., in a motor vehicle⁶, shall secure such child in a Federally approved system child restraint provided that the seating position is equipped with a safety belt system that allows sufficient space of installation. §46.61.687(1)(a)

II⁵. A person, when transporting a child, who is <1 year old or who weighs <20 lbs., in a motor vehicle⁶, shall secure such child in a rear-facing infant seat. §46.61.687(1)(b)

III⁵. A person, when transporting a child, who is >1 year old but <4 years old or who weighs ≥20 lbs. but <40 lbs., in a motor vehicle⁶, shall secure such child in a forward facing child safety seat. §46.61.687(1)(c)

IV⁵. A person, when transporting a child, who is 4 years old but <6 years old or who weighs ≥40 lbs. but <60 lbs. in a motor vehicle⁶, shall secure such child in a child booster seat⁷. §46.61.687(1)(d)

V⁵. A person, when transporting a child, who is ≥6 years old but <16 years old or who weighs >60 lbs., in a motor vehicle⁶, shall secure such child in either a safety belt which has been properly adjusted and fastened or an appropriately fitting booster seat⁷. §46.61.687(1)(e)

VI. A person, when transporting a child, who is <6 years old or who weighs <60 lbs. in a motor vehicle⁶ that is equipped with an activated passenger side air bag system, shall transport such child, if practical to do so, in the back seat. §46.61.687(1)(f)

Note: It is illegal to transport a child <5 years old on a motorcycle or motor-driven cycle. §46.37.530(d)

⁴**Exemptions.** These requirements do not apply in the following circumstances: (1) to children riding in for hire vehicles; (2) to children riding in vehicles designed to transport ≤16 persons (including the driver) and that are operated by auto transportation companies; (3) to children riding in vehicles providing customer shuttle service between parking, convention and hotel facilities and airport terminals; and, (4) school buses. §46.61.687(4)

⁵**Important.** This requirement does not apply if the seating position has only a lap belt available and the child weights >40 lbs. §46.61.687(6)

⁶The term "motor vehicle" means passenger cars that are required by law to have safety belts. §§46.37.510 & 46.61.687(1) The "passenger car" is defined as every motor vehicle, except motorcycles and motor-driven cycles, that is used to and designed to carry ≤10 persons. §46.04.382

⁷"Child booster seat" is defined to mean "a child passenger restraint system that meets Federal Motor Vehicle Standards set forth in 49 CFR 571.213 that is designed to elevate a child to properly sit in a federally approved lap/shoulder belt system." §46.61.687(5)

Required Use of Child Safety Restraint Systems:

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Traffic Infraction: Not more than \$250.³ §§46.61.687(2) & 46.63-110(1)

Effect on Civil Liability:

Failure to comply with these requirements shall not constitute negligence by a parent or legal guardian. In addition, failure to use a child restraint system is not admissible as evidence of negligence in any civil action. §46.61.687(3) & *Patterson v. Horton*, 929 P.2d 1125 (Wash.App. 2 Div. 1997)

Required Use of Motorcycle Protective Headgear⁸:

Requirements:

A person, who operates or rides on a motorcycle, motor-driven cycle or moped, must wear State approved protective helmet. §46.37.530(c)

Sanctions for Failure to Use:

Traffic Infraction: Not more than \$250.³ §§46.63.020 & 46.63.110(1)

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person, who operates a motorcycle or a motor-driven cycle, which does not have a windshield, must wear State approved glasses, goggles or a face shield. §46.37.530(1)(b)

Sanctions for Failure to Use:

Traffic Infraction: Not more than \$250.³ §§46.63.020 & 46.63.110(1)

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements:

None⁹

Sanctions for a Violation:

Exemptions:

⁸Failure to wear a helmet is not an affirmative defense to the causation of an accident. *Keller v. City of Spokane*, 82 Wash. App. 1061(Wash.App. 1996) (The State supreme court denied review, 936 P.2d 417 (Wash. 1997).)

⁹The safety belt usage and child passenger protection laws may have indirectly established such a prohibition.

WASHINGTON

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

WEST VIRGINIA
West Virginia Code

Required Use of Safety Belts¹:

Requirements:

A person may not operate a passenger vehicle² unless they, all front seat passengers (regardless of age) and all back seat passengers <18 years old are restrained in a safety belt. §17C-15-49(a)

Secondary Enforcement. Enforcement of this requirement shall be accomplished only as a secondary action when the driver has been detained for probable cause of violating another State law. §17C-15-49(c)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: A fine of not more \$25³. No court costs or other fees shall be assessed against a person for a violation of this requirement. §§17C-15-49(c) & 17C-18-1(a) Note: The law does not appear to assign points for a violation of this requirement.

Effect on Civil Liability:

A violation of these requirements is not admissible as evidence of negligence, contributory negligence or comparative negligence in any civil action. Generally, a violation of this requirement is not admissible in the mitigation of damages. However, under certain circumstances, when it can be shown that such a violation was the proximate cause of injuries, such evidence may be admitted to reduce damages by not more than 5%. §17C-15-49(d)

Required Use of Child Safety Restraint Systems⁴:

Requirements:

I. A person, when transporting a child <3 years old in a passenger automobile⁵, shall secure such child in a Federally approved child passenger safety device. §17C-15-46 (¶1)

Exemptions. The requirement to wear a safety belt does not apply in the following circumstances: (1) To rural mail carriers of the U.S. Postal Service while they are performing official duties; and, (2) to persons who have a physical disability that would prevent appropriate restraint in a safety belt. §17C-15-49(b)

²The term "passenger vehicle" means a motor vehicle that is designed to transport ≤10 persons (including the driver). However, the term does not include a motorcycle, a trailer or any motor vehicle that is not required under Federal law to have safety belts. §17C-15-49(a)

³**Alternative Sentences.** In lieu of either a fine or incarceration sanction (except mandatory incarceration via statute), a court may impose one of the following sentences: Either (1) a weekend jail program where the offender spends weekends or "other days normally off from work" in confinement; (2) first one or two days in confinement followed by work assignments either within the jail or on other public works projects outside of the jail; or, (3) a community service program with either government entities, charitable or other non-profit organizations which have been approved by the court. §62-11A-1a(a) & (c)(1)

⁴These requirements do not apply if all of the seat belts are being used; i.e., the number of passengers in the vehicle exceeds the number of seat belts available for use. §17C-15-46 (¶5)

⁵This requirement also applies to children riding in a van or a pick-up truck. However, such a requirement does not apply to children who are riding in motor vehicles for hire. §17C-15-46 (¶1)

WEST VIRGINIA

Required Use of Child Safety Restraint Systems: (continued)

Requirements: (continued)

II. A person, when transporting a child ≥ 3 but < 9 years old in a passenger automobile⁵, shall secure such child either in a Federally approved child passenger safety device or a safety belt. §17C-15-46 (¶1)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor: Not less than \$10 nor more than \$20³. §17C-15-46 (¶2)
Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

A violation of these requirements does not constitute evidence (1) of negligence, (2) of contributory negligence or (3) of comparative negligence in any civil action. §17C-15-46 (¶3)

Required Use of Motorcycle Protective Headgear:

Requirements:

No person shall operate or ride on a motorcycle or motor-driven cycle unless they are wearing an officially approved protective helmet. §17C-15-44(a)

Sanctions for Failure to Use:

Misdemeanor: 1st offense-An imprisonment term of not more than 10 days and/or a fine of not more than \$100³. 2nd offense (within 1 year)-An imprisonment term of not more than 20 days and/or a fine of not more than \$200³. 3rd or subsequent offense-An imprisonment term of not more than 6 months and/or a fine of not more than \$500³. §17C-18-1(a) & (b) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

No person shall operate or ride on a motorcycle or motor-driven cycle unless they are wearing officially approved safety, shatter-resistant eyeglasses (excluding contact lenses), eyegoggles or a face shield. §17C-15-44(b)

Sanctions for Failure to Use:

Misdemeanor: 1st offense-An imprisonment term of not more than 10 days and/or a fine of not more than \$100³. 2nd offense (within 1 year)-An imprisonment term of not more than 20 days and/or a fine of not more than \$200³. 3rd or subsequent offense-An imprisonment term of not more than 6 months and/or a fine of not more than \$500³. §17C-18-1(a) & (b) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear⁶:

Requirements:

I. A person < 15 years is prohibited from operating or being a passenger on a bicycle unless they wear a protective bicycle helmet. §17C-11A-4(a)

⁶State law allows a local government to enact an ordinance requiring the use of bicycle helmets. §17C-11A-8

Required Use of Bicycle Protective Headgear:
(continued)

Requirements: (continued)

Sanctions for Failure to Use:

II. It is unlawful for a parent or legal guardian to knowingly permit their child to violate the above requirement. §17C-11A-4(b)

Misdemeanor: A parent of legal guardian, who violates this requirement, either is subject to a fine of \$10' or must perform 2 hours of community service related to child injury prevention. §§17C-11A-7(a) & 17C-18-1(a) Note: There appears to be no sanction against a person <15 years old who violates this requirement.

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

Note: See Required Use of Child Safety Restraint Systems above.

Sanctions for a Violation:

Exemptions:

WEST VIRGINIA

VEHICLE OCCUPANT PROTECTION V

JURISDICTION:
General Reference:

WISCONSIN

Wisconsin Statutes Annotated and Wisconsin Administrative Code (WAC)

Required Use of Safety Belts¹:

Requirements:

- I. When operating a motor vehicle¹, a person shall be "properly restrained"² in a safety belt. §347.48(2m)(b)
 - II. No person shall operate a motor vehicle¹ unless all front seat passengers ≥4 but <15 years old are "properly restrained"² in a safety belt. In addition, in other seating positions (e.g., rear seats) where the safety belt restraint system has a shoulder harness, such persons shall be "properly restrained"² by such belt. §347.48(2m)(c)
 - III. Front seat passengers ≥4 years old shall be "properly restrained"² in a safety belt. In addition, in other seating positions (e.g., rear seats) where the safety belt restraint system has a shoulder harness, such persons shall be "properly restrained"² by such belt. §347.48(2m)(d)
- Important.** See Required Use of Child Safety Restraint Systems below.
Secondary Enforcement. A law enforcement officer may not stop or inspect a vehicle solely to determine compliance with these requirements. §347.48(2m)(gm)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Forfeiture: A fine of \$10. §347.50(2m)(a) However, no forfeiture may be assessed if the offender is <16 years old. §347.50(2m)(b) Note: No points may be assessed against a person's driving record for a violation of these requirements. WAC 101.01(5)(a) & (b)

Effect on Civil Liability:

Evidence of non compliance with these requirements may be admitted into evidence in any civil action. However, such non compliance shall not reduce recovery for damages by more than 15%. §347.48(2m)(g)

¹Exemptions. The requirements to use a safety belt do not apply in the following circumstances: (1) To persons operating or riding in emergency vehicles (e.g. law enforcement vehicles, ambulances, etc.) if such use could endanger the operator or another (§347.48(2m)(dm)); (2) to motor vehicle operators or passengers who are required to make more than 10 stops per mile in the scope of their employment (§347.48(2m)(dr)); (3) to persons who, because of physical or medical conditions, cannot be properly restrained in a safety belt (§347.48(2m)(e)); (4) to persons operating or riding in taxicabs (§347.48(2m)(f)(1)); (5) to persons operating or riding in motor vehicles that are not required under Federal law to be equipped with safety belts (§347.48(2m)(f)(1)); (6) to rural letter carriers or to persons who are delivering newspapers or periodicals (§347.48(2m)(f)(2)); (7) to persons operating or riding in motor vehicles while such vehicles are being used in land surveying (§347.48(2m)(f)(3)); and, (8) to persons operating or riding in a farm truck while such vehicle is being used in conjunction with the planting or harvesting of crops and is not being operated on a highway (§347.48(2m)(f)(7)).

²"Properly restrained" is defined to mean "wearing a safety belt approved by the department ... and fastened in a manner prescribed by the manufacture of the safety belt which permits the safety belt to act as a body restraint." §347.48(2m)(a)

Required Use of Child Safety Restraint Systems³:

Requirements:

- I. No person shall transport a child <4 years old in a motor vehicle², unless such child is "properly restrained"⁴ in a State/Federally approved child safety restraint system. §347.48(4)(a)(1)
- II. No person shall transport a child ≥4 but <8 years old in a motor vehicle², unless such child is "properly restrained"⁵ in either a State/Federally approved child safety restraint system or a safety belt. §347.48(4)(a)(2)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

- I. Forfeiture: For a violation of I above there is an assessment of not less than \$30 nor more than \$75. §347.50(3)(a)
 - II. Forfeiture: For a violation of II above, for a 1st offense there is an assessment of not less than \$10 nor more than \$25 and for a 2nd or subsequent offense (within 3 years) there is an assessment of not less than \$25 nor more than \$200. §347.50(4)
- Note: No points may be assessed against a person's driving record for a violation of these requirements. WAC 101.01(5)(a)

Effect on Civil Liability:

Evidence of a failure to comply with these requirements is admissible in any civil action. However, such failure to comply does not by itself constitute negligence. §347.48(4)(d)

Requirements:

- I. No person, who holds a motorcycle instructional permit, regardless of age, shall operate a motorcycle⁶ unless they are wearing Federally approved protective headgear. §347.485(1)(a)
- II. No person <18 years old shall operate a motorcycle³ unless they are wearing Federally approved protective headgear. §347.485(1)(a)

³Exemptions. These requirements do not apply in the following circumstances: (1) To a child who is temporarily removed from a child restraint system to attend to its personal needs and the child is being transported in the back seat (§347.48(4)(a)(3)); (2) to a child who has a physical, medical condition or body size that prevents the use of either a child safety restraint system or safety belt (§347.48(4)(b)); and, (3) to a child who is riding in a motor bus, school bus, taxicab, moped, motorcycle or a vehicle that is not required to be equipped with safety belts under Federal law (§347.48(4)(c)).

⁴"Properly restrained" is defined to mean "fastened in a manner prescribed by the manufacture of the system which permits the system to act as a body restraint but does not include a system in which the only body restraint is a safety belt" §347.48(4)(a)(1)

⁵"Properly restrained" is defined to mean "fastened in a manner prescribed by the manufacture of the system which permits the system to act as a body restraint." §347.48(4)(a)(2)

⁶This requirement applies only to persons operating or riding on Type I motorcycles. A Type I motorcycle is generally a 2 (tandem) or 3 wheeled motor vehicle designed to carry a 150 lb. person at a speed >30 MPH. Type I motorcycles with 3 wheels are of two types. The first is a general two wheeled (tandem) motorcycle with a sidecar. And, the second is an unenclosed 3 wheeled motorcycle designed to carry the operator and no more than 3 passengers. §340.01(32)

Required Use of Motorcycle Protective Headgear:Required Use of Motorcycle Protective Headgear:
(continued)

Sanctions for Failure to Use:

Forfeiture: An assessment of not less than **\$10** nor more than **\$200**.
§347.50(1) Note: No points may be assessed against a person's driving record for a violation of these requirements. WAC 101.01(5)(c)Required Use of Motorcycle Eye Protection Device⁷:

Requirements:

Unless a motorcycle is equipped with a windshield, a motorcycle operator shall wear either a protective face shield, glasses or goggles.
§347.485(2)

Sanctions for Failure to Use:

Forfeiture: An assessment of not less than **\$10** nor more than **\$200**.
§347.50(1) Note: Although the law is not specific, a person's driving record may be assessed 2 points for a violation of this requirement.
WAC 101.02(4)(e)Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. No person shall drive a vehicle when any person is riding upon any portion of the vehicle that is not designed or intended for passenger use. This requirement does not apply to employee's discharging necessary duties as part of their employment. §346.92(1)

II. No person shall ride upon any portion of the vehicle that is not designed or intended for passenger use. This requirement does not apply to employee's discharging necessary duties as part of their employment. §346.92(2)

III. No person shall operate a truck weighing $\leq 10,000$ lbs. when a person < 16 years old is in the open cargo area of such vehicle. §346.922(1)

Sanctions for a Violation:

I. For a violation of I or II above, Forfeiture: 1st offense-An assessment not less than **\$20** nor more than **\$40**. 2nd or subsequent offense (within 1 year)-An assessment not less than **\$50** nor more than **\$100**. §346.95(1)

⁷This requirement does not apply to persons who are operating motorcycles in a parade which is sanctioned by a local government.
§347.485(2)

Prohibition Against Riding in Unsecured
Portion of Vehicle: (continued)

Sanctions for a Violation: (continued)

II. For a violation of III above, Forfeiture: 1st offense-An assessment not less than **\$10** nor more than **\$25**. 2nd or subsequent offense (within 3 years)-An assessment not less than **\$25** nor more than **\$200**. §346.95(7)

Note: Although the law is not specific, a person's driving record may be assessed 2 points for a violation of these requirements. WAC 101.02(4)(e)

Exemptions:

I. The prohibitions under I & II above do not apply to employee discharging necessary duties as part of their employment or to persons riding within truck bodies in spaces intended for merchandise. §346.92

II. The prohibition under III above does not apply to persons (1) who are operating a farm truck while performing farm operations, (2) who are operating a truck in a parade sanctioned by a local municipality or (3) who are transporting licensed deer hunters during authorized deer hunting season with firearms. §346.922(2)

JURISDICTION:
General Reference:

WYOMING
Wyoming Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

I. When a motor vehicle² is in motion, the driver and each passenger shall wear a safety belt. §31-5-1402(a)
II. When a motor vehicle² is in motion, the driver shall require each passenger <12 years old to wear a safety belt. §31-5-1402(a)
Secondary Enforcement. No motor vehicle shall be halted solely for a violation of these requirements. A moving violation citation must be issued prior to one for violating these requirements. §31-5-1402(d)

Sanctions for Failure to Use or
Require the Use of Safety Belts³:

I. Misdemeanor: A driver, who violates the requirements in either I or II above, is subject to a fine of not more than **\$25**. §31-5-1201(a) & 31-5-1402(e)
II. Misdemeanor: A passenger, who violates the requirement in I above, is subject to a fine of not more than **\$10**. §31-5-1201(a) & 31-5-1402(e)
No violation of these requirements may be counted as a moving violation for license suspension purposes. §31-5-1402(c)(i) In addition, a violation of these requirements is neither grounds for increasing insurance premiums nor can such be made part of a person's driving record. §31-5-1402(c)(ii)

Effect on Civil Liability:

Evidence of a person's failure to comply with there requirements is not admissible in any civil action. §31-5-1402(f)

Required Use of Child Safety Restraint Systems⁴:

Requirements:

A person, when transporting a child≤4 years old and weighing ≤40 lbs. in a passenger vehicle⁵, shall secure such child in a Federally approved

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons who for physical or medical reasons makes such use unadvisable; (2) to persons operating or riding in motor vehicles that are not required to be equipped with safety belts under Federal law; (3) to carriers of the U.S. Postal Service while performing official duties; and, (4) to persons occupying a seat where all operable safety belts are being used by the driver or other passengers and to "any person occupying a seat in a vehicle originally manufactured without a safety belt." §31-5-1402(b)

²"Motor vehicle" "means every vehicle which is self-propelled except vehicles moved solely by human power and golf carts...." §31-5-102(a)(xxiv) Note: There is no definition of "motor vehicle" in the safety belt use law. This is the definition of "motor vehicle" under the general definitions provision of the motor vehicle code (Title 31).

³If a person is cited for a violation of the traffic laws, they may have their fine reduced by **\$10** if they were wearing a safety belt. §31-5-1402(e)

⁴**Exemptions.** This requirement does not apply in the following circumstances: (1) To a child whose weight, physical or medical condition prohibits the use of a child safety restraint system; and, (2) the driver of the vehicle is rendering aid or assistance to the child or his parent or guardian. §31-5-1303(b)

⁵The term "passenger vehicle" means a motor vehicle, excluding emergency and law enforcement vehicles, designed to carry people and that was equipped with safety belts at the time of manufacture. §31-5-1302(a)(v) Note: The terms "school bus" and "commercial vehicle" are excluded from this definition. The law provides for specific definitions of these terms. §31-5-1302(a)(ii) & (vi) As a result, children, who are riding in these vehicles, do not have to be secured in a child passenger restraint system.

WYOMING

Required Use of Child Safety Restraint Systems: (continued)

Requirements: (continued)

child restraint system. §§31-5-1302(a)(i) & 31-5-1303(a)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Misdemeanor: 1st offense-A fine of not more than \$50. 2nd or subsequent offense-A fine of not more than \$100. §§31-5-1201(a) & 31-5-1304(a) Note: The law does not specifically provided for licensing action for a violation of this requirement. However, the law does allow the State to suspend a person's license for not more than 12 months for repeated convictions of "moving violations." §31-7-129(a)(i) The law is not clear on whether a conviction of this requirement is a moving violation.

Effect on Civil Liability:

A violation of this requirement "does not constitute evidence of negligence or recklessness and does not constitute a basis for criminal prosecution except as se forth" above. §31-5-1305

Required Use of Motorcycle Protective Headgear:

Requirements:

- I. A minor⁶ shall not operate or ride on a motorcycle unless they are wearing protective headgear. §31-5-115(o)
- II. A motorcycle operator shall not allow a minor⁶ to ride on a motorcycle unless such minor is wearing protective headgear. §31-5-115(o)

Sanctions for Failure to Use:

Misdemeanor: 1st offense-An imprisonment term of not more than 20 days and/or a fine of not more than \$200. 2nd offense (within 1 year)-An imprisonment term of not more than 30 days and/or a fine of not more than \$300. 3rd or subsequent offense (within 1 year)-An imprisonment term of not more than 6 months and/or a fine of not more than \$500. §31-5-1201(a) & (b) Note: The law does not specifically provided for licensing action for a violation of these requirements. However, the law does allow the State to suspend a person's license for not more than 12 months for repeated "moving violation" convictions. §31-7-129(a)(i) The law is not clear on whether a conviction of either of the above requirements is moving violation.

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

⁶A "minor" is defined as a person who has not yet reached their eighteenth birthday. §8-1-102(a)(iii)(B)

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements: **None⁷**

Sanctions for a Violation:

Exemptions:

⁷Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

WYOMING

VEHICLE OCCUPANT PROTECTION V

APPENDIX

JURISDICTION:
General Reference:

UNIFORM VEHICLE CODE (UVC)
The UVC as revised by the National Committee on Uniform Traffic Laws and Ordinances in 2000.

Required Use of Safety Belts¹:

Requirements:

- I. A person is required to use a safety belt when operating a motor vehicle². §12-412(a)
- II. When operating a motor vehicle², a person must require that all passenger be secured in a safety belt. Passengers <12 years old must be secured by a safety belt in the rear seat unless all available rear seats are in use by other passengers <12 years old. §12-412(b)

Sanctions for Failure to Use or
Require the Use of Safety Belts³:

Misdemeanor: 1st offense-A fine of not more than \$200 2nd offense (within one year)-A fine of not more than \$300 3rd and subsequent offenses (within one year)-An imprisonment term of not more than 6 months and/or a fine of not more than \$500 §17-101(a) & (b)

Effect on Civil Liability:

The UVC has no provision related to this subject.

Required Use of Child Safety Restraint Systems¹:

Requirements:

- I. When a motor vehicle⁴ is in operation, a vehicle operator (parent or legal guardian if in the vehicle but not the operator) must properly restrain a child <4 years old regardless of weight or <40 lbs. regardless of age in a child passenger restraint system that has been approved by the U.S. Department of Transportation. §12-412(c)(1)
- II. When a motor vehicle⁴ is in operation, a vehicle operator (parent or legal guardian if in the vehicle but not the operator) must properly restrain a child ≥40 lbs. but <16 years either (1) in a child passenger restraint system that has been approved by the U.S. Department of Transportation or (2) in a safety belt. §12-412(c)(2)

Sanctions for Failure to Require
the Use of Child Restraint Systems³:

Misdemeanor: 1st offense-A fine of not more than \$200 2nd offense (within one year)-A fine of not more than \$300 3rd and subsequent offenses (within one year)-An imprisonment term of not more than 6

¹**Exemptions.** The State is authorized to exempt individuals and classes of persons from the required use of either safety belts or child restraint systems. Such exemptions must be based on either medical, physical or occupational reasons, where compliance would not be possible, safe and reasonable. §12-412(d)

²This requirement applies only to vehicles that have seating positions with safety belts. §12-412(a) & (b)

³The UVC does not specifically provide for any licensing sanctions for violations of vehicle occupant protection requirements. However, it does provide that a person's license can be suspended based upon frequent violations of the traffic laws under a point system. To implement this provision, the UVC authorizes a jurisdiction to implement a point system via regulations. §6-207 Under, such regulations, a jurisdiction could provide for the assessment of points for a violation of any occupant protection requirement.

⁴This requirement applies to vehicles that are required by Federal law to have safety belts. §§12-411 & 12-412(c)

UNIFORM VEHICLE CODE

Required Use of Child Safety Restraint Systems: (continued)

Sanctions for Failure to Require
the Use of Child Restraint Systems: (continued)

months and/or a fine of not more than \$500 §17-101(a) & (b)

Effect on Civil Liability:

The UVC has no provision on this subject.

Required Use of Motorcycle Protective Headgear:

Requirements:

No person shall operate or ride upon a motorcycle unless they are wearing protective headgear that has been approved by the State. §11-1306(a)

Sanctions for Failure to Use³:

Misdemeanor: 1st offense-A fine of not more than \$200 2nd offense (within one year)-A fine of not more than \$300 3rd and subsequent offenses (within one year)-An imprisonment term of not more than 6 months and/or a fine of not more than \$500 §17-101(a) & (b)

Required Use of Motorcycle Eye Protective Device³:

Requirements:

No person shall operate a motorcycle unless they are wearing an eye-protection device that has been approved by the State. §11-1306(b)

Sanctions for Failure to Use³:

Misdemeanor: 1st offense-A fine of not more than \$200 2nd offense (within one year)-A fine of not more than \$300 3rd and subsequent offenses (within one year)-An imprisonment term of not more than 6 months and/or a fine of not more than \$500 §17-101(a) & (b)

Required Use of Bicycle Protection Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. Persons, who are operating either (1) trucks having a gross vehicle

³Under §11-1115, "[e]very person operating a motor vehicle that is not equipped with a windshield in position to deflect objects which would hit such person's face shall wear an eye-protection device of a type approved by the commissioner. This section shall not apply to a person operating a motorcycle."

Prohibition Against Riding in Unsecured
Portion of Vehicle: (continued)

Requirements: (continued)

weight of $\leq 10,000$ lbs.⁶ or (2) any flatbed truck of any weight, shall not transport any person < 18 years old in the back of such vehicles. §11-1118(a)

II. Persons < 18 years old shall not ride in the back of such vehicles. §11-1118(a)

Sanctions for a Violation³:

Misdemeanor: 1st offense-A fine of not more than \$200 2nd offense (within one year)-A fine of not more than \$300 3rd and subsequent offenses (within one year)-An imprisonment term of not more than 6 months and/or a fine of not more than \$500 §17-101(a) & (b)

Exemptions:

I. This prohibition does not apply if any one of the following conditions is satisfied: (1) The back of the vehicle is enclosed to a height of 46 inches from the floor; (2) the vehicle has a system that prevents a minor from being discharged from the back of the vehicle; or, (3) the minor has been secured to the vehicle in such a manner that they will not be thrown from, fall out of or jump from the vehicle. §11-1118(b)

II. This prohibition does not apply to the transportation of employees. §11-1118(c)

⁶This type of vehicle is commonly known as a pickup truck. §11-1118(a)

